

RNTPC Paper No. A/YL-PH/844  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 10.7.2020

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**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-PH/844**

<b><u>Applicant</u></b>	: Chief Force Limited
<b><u>Site</u></b>	: Lots 1895 (Part) and 1913 (Part) in D.D. 111 and Adjoining Government Land, Leung Uk Tsuen, Pat Heung, Yuen Long
<b><u>Site Area</u></b>	: About 255m <sup>2</sup> (including Government Land of about 220m <sup>2</sup> (86%))
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<b><u>Zoning</u></b>	: “Village Type Development” (“V”) (63%) [Maximum building height of 3 storeys (8.23m)]  “Agriculture” (“AGR”) (37%)
<b><u>Application</u></b>	: Proposed Temporary Warehouse for Construction Materials for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary warehouse for construction materials for a period of 3 years. The Site is zoned “V” (63%) and “AGR” (37%) on the Pat Heung OZP. The proposed use is neither Column 1 nor Column 2 use in the “V” or “AGR” zone. According to the Notes of the OZP, temporary use or development of any land not exceeding a period of three 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 vacant.

- 1.2 The Site is the subject of two previous applications. The last application No. A/YL-PH/763 for the same applied use as the current application was approved with conditions by the Rural and New Town Planning Committee (the Committee) for a period of 3 years on 22.12.2017. The planning permission was revoked on 22.5.2020 due to non-compliance of approval conditions.
- 1.3 According to the applicant, the Site will be occupied by a one-storey (6m) temporary structure with a total floor area of about 190m<sup>2</sup> for warehouse use. A loading/unloading space for light goods vehicle will be provided within the structure. No vehicles more than 5.5 tonnes or tractors will be allowed to enter the Site. The operation hours are from 9:00am to 6:00pm, Monday to Saturday. There will be no operation on Sunday and public holiday. The Site is accessible via a local track to Kam Tin Road. The layout plan, drainage proposal, fire service installations (FSIs) proposal and vehicular access plan submitted by the applicant are at **Drawings A-1 to A-4**.
- 1.4 When compared with the last approved application (No. A/YL-PH/763) submitted by the same applicant, the current application is the same in terms of applied use, site area / boundary and floor area.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with supplementary statement and **(Appendix I)** plans received on 11.5.2020
  - (b) Further Information (FI) received on 29.5.2020 and **(Appendix Ia)** 1.6.2020 in response to departmental comments\*
  - (c) FI received on 19.6.2020 in response to departmental **(Appendix Ib)** comments \*
  - (d) FI received on 24.6.2020 in response to departmental **(Appendix Ic)** comments \*

*\*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 at **Appendix I**. They can be summarized as follows:

- (a) There is no change when compared with the previous planning application No. A/YL-PH/763. No complaints were received from government departments and the locals during the last planning approval. No permanent structure will be

provided at the Site. The temporary use will not jeopardize the long-term planning intention of the area.

- (b) The applicant had already complied with some of the approval conditions of the previous planning approval under application No. A/YL-PH/763. However, as the Short Term Tenancy (STT) and Short Term Waiver (STW) for the development could not be approved in time, the applicant was not able to comply with the remaining approval conditions relating to the implementation of drainage facilities and FSIs before the conditions' expiry date. As such, the applicant submits the current application and wishes sympathetic consideration could be given to the application. He will apply for STT and STW and comply with the approval conditions as soon as possible if planning permission is granted.
- (c) There will be no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities at the Site. Proper drainage facilities and FSIs will be provided and at the Site. The proposed development will not result in adverse traffic impact.

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

The applicant is not the “current land owner” of the private land portion 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 Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending registered mail to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the Government Land portion, the “Owner’s Consent / Notification” requirements are not applicable.

### **4. Background**

The Site is not subject to planning enforcement action.

### **5. Previous Applications**

The Site is the subject of two previous applications. Planning application No. A/YL-PH/567 for temporary animal boarding establishment (kennel) and application No. A/YL-PH/763 for the same applied use as the current application were approved with conditions by the Committee on 1.8.2008 and 22.12.2017 respectively on similar considerations that temporary use would not frustrate the long-term planning intentions of the “V” and “AGR” zones; the development was not incompatible with the surrounding land uses; concerned departments generally had no adverse comments on the application and the technical concerns could be addressed by imposition of approval

conditions. However, both applications were revoked on 1.2.2009 and 22.5.2020 respectively due to non-compliance with approval conditions. For the last approved application No. A/YL-PH/763, the applicant complied with the conditions on submission of drainage and FSIs proposal but did not comply with the conditions on implementation of these proposals. Details of the previous applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

## **6. Similar Application**

There is no similar application for warehouse use within the same “V” and “AGR” zones.

## **7. The Site and Its Surrounding Areas (Plans A-2 to A-4)**

7.1 The Site is:

- (a) paved and vacant; and
- (b) accessible via a local track leading from Kam Tin Road to its north.

7.2 The surrounding area is rural in character intermixed with residential dwellings/structures, the stabling sidings of the Guangzhou-Shenzhen-Hong Kong Express Railway Link (XRL), open storage yards, parking of vehicles, agricultural land, graves and vacant / unused land. The open storage yards and parking of vehicles are suspected unauthorized developments subject to enforcement action by the Planning Authority:

- (a) to its immediate south and west in the “AGR” zone is the Shek Kong Stabling Sidings of the XRL. To its further southeast are open storage yard and vacant / unused land; and
- (b) to its immediate west, north and east in the “V” zone are a shrine, vacant land and an open storage yard. Further north and east are residential structures / dwellings, parking of vehicles, agricultural land, graves and vacant land.

## **8. Planning Intentions**

8.1 The planning intention of the “V” 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 ground floor of a New Territories Exempted House. Other commercial, community and recreational uses may be permitted on application to the Board.

- 8.2 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.

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

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

### **Land Administration**

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

- (a) The Site comprises Government Land (GL) and 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) No permission is given for occupation of GL (about 220m<sup>2</sup> subject to verification) included in the Site. Any occupation of GL without Government’s prior approval is not allowed.
- (c) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structure(s) 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. Application(s) for any of the above will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by the LandsD.

- (d) There is no Small House application approved or under processing within the Site.

### **Traffic**

#### 9.1.2 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 his department. 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.

#### 9.1.3 Comments of the Chief Highway Engineer/NT West, Highway Department (CE/NTW, HyD):

- (a) HyD shall not be responsible for the maintenance of any access connecting the Site and Kam Tin Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

### **Environment**

#### 9.1.4 Comments of the Director of Environmental Protection (DEP):

There was no environmental complaint concerning the Site received in the past 3 years. 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.

### **Landscape**

9.1.5 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):

- (a) She has no objection to the application from the landscape planning perspective.
- (b) Based on the aerial photo taken on 12.9.2019, the Site is situated in an area of disturbed rural landscape character comprising of scattered trees, vehicle park, temporary structures and abandoned farmlands. The proposed use is not entirely incompatible with the landscape character of the area. Referring to the site visit on 27.5.2020, the Site is paved and vacant. No existing tree is found within the Site. Significant adverse impact on landscape resources within the Site is not anticipated.

### **Agriculture**

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

The Site falls within areas zoned “V” and “AGR” and is currently paved vacant land. 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 greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view.

### **Drainage**

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

- (a) He has no in-principle objection to the proposed development from the public drainage point of view.
- (b) Should the application be approved, approval conditions on the submission of a revised drainage proposal, and implementation and maintenance of the revised drainage proposal for the development should be included.

- (c) His detailed comments on the submitted drainage proposal are included in **Appendix III**.

### **Fire Safety**

#### 9.1.8 Comments of the Director of Fire Services (D of FS):

- (a) He has no in-principle objection to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) The FSIs proposal submitted by the applicant is considered acceptable to his department. The installation / maintenance / modification / repair work of FSI shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation / maintenance / modification / repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to him.
- (c) In addition, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Building Matters**

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

- (a) Before any new building works (including containers/ open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are unauthorized building works (UBW) under the BO. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing 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.



- (c) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (d) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

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

9.1.10 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD);

He has not received any comment from locals upon close of consultation and he has no particular comment on the application.

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

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

## **10. Public Comment Received During Statutory Publication Period**

On 19.5.2017, the application was published for public inspection. During the three-week publication period, one public comment was received from an individual (**Appendix IV**). She objects to the application mainly on the grounds that the Site involves GL and questions the continuous use of the Site for brownfield use.

## **11. Planning Considerations and Assessments**

11.1 This application is for a proposed temporary warehouse for construction materials for a period of 3 years at a site zoned "V" (63%) and "AGR" (37%). 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. 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. The application is not in line with the planning intentions of the “V” and “AGR” zones. Nevertheless, DLO/YL of LandsD advises that there is no Small House application approved or under processing at the Site. Besides, while DAFC does not support the application as the Site possesses potential for agricultural rehabilitation, only about 37% of the Site falls within the “AGR” zone. Moreover, the Site is mainly surrounded by the Shek Kong Stabling Sidings of the XRL, a shrine and open storage yard. The proposed temporary warehouse for construction materials would allow this residual land parcel to be better utilized. It is considered that the approval of the application on a temporary basis for a period of 3 years would not jeopardise the long-term planning intentions of the “V” and “AGR” zones.

- 11.2 The Site is located at the fringe of the “V” zone adjoining the Shek Kong Stabling Sidings of the XRL. The proposed use with a one-storey (6m) structure is considered not incompatible with the surrounding area, which is rural in character intermixed with residential dwellings/structures, the Shek Kong Stabling Sidings of the XRL, open storage yards and vacant / unused land.
- 11.3 Relevant departments consulted, including C for T, DEP, CE/MN of DSD and D of FS have no objection to or adverse comment on the application. To minimize the possible environmental nuisance generated by the development, approval conditions restricting the operation hours, vehicle types and workshop activities are recommended in paragraphs 12 (a) to 12 (d) below. Besides, the applicant will be advised to adopt the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of C for T, D of FS and CE/MN of DSD could be addressed by approval conditions in paragraph 12.2 (e) to (i) below.
- 11.4 The Site is subject to two previous planning applications. The last planning application No. A/YL-PH/763 submitted by the same applicant for the same applied use was approved with conditions by the Committee in 2017 for a period of 3 years. However, the permission was revoked due to non-compliance with the approval conditions on implementation of drainage and FSIs proposals in 2020. In the current application, the applicant submitted drainage and FSI proposals and undertakes to comply with the approval conditions should the application be approved. CE/MN of DSD and D of FS have no in-principle objection to the application. When compared with the previous approved application, the current application is the same in terms of use, site area and floor area. As there is no major change in planning circumstances since the last approval, sympathetic consideration could be given to the current application. Shorter compliance periods are proposed to closely monitor the progress of compliance of the approval conditions should the Committee decide to approve the current application. The applicant will be advised that should he fail to comply with the

approval conditions again resulting in the revocation of the planning permission, sympathetic consideration may not be given by the Committee to any further application.

- 11.5 One public comment objecting to the application was received during the statutory publication period as stated in paragraph 10 above. In this regard, the departmental comments as well as planning considerations and assessments as stated 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, the Planning Department considers that the proposed temporary warehouse for construction materials 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 10.7.2023. 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 or other workshop activities are allowed on the Site at any time during the planning approval period;
- (d) 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;
- (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 submission of a revised drainage proposal within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 10.10.2020;

- (g) in relation to (f) above, the implementation of the 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 10.1.2021;
- (h) in relation to (g) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (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 10.1.2021;
- (j) if any of the above planning condition (a), (b), (c), (d), (e) 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;
- (k) if any of the above planning condition (f), (g) 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; and
- (l) upon expiry of the planning permission, the reinstatement of the portion of the Site zoned “AGR” 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 attached at **Appendix V**.

- 12.3 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 intentions of the “V” and “AGR” zones. Land within the “V” zone is primarily intended for development of Small Houses by indigenous villages. The “AGR” zone is intended 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. 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**

<b>Appendix I</b>	Application Form with supplementary statement and plans received on 11.5.2020
<b>Appendix Ia</b>	FI received on 29.5.2020 and 1.6.2020
<b>Appendix Ib</b>	FI received on 19.6.2020
<b>Appendix Ic</b>	FI received on 24.6.2020
<b>Appendix II</b>	Previous applications covering the Site
<b>Appendix III</b>	Detailed comments from the CE/MN of DSD
<b>Appendix IV</b>	Public comment received during the statutory publication period
<b>Appendix V</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Drawing A-2</b>	Drainage proposal
<b>Drawing A-3</b>	FSI proposal
<b>Drawing A-4</b>	Vehicular Access Plan
<b>Plan A-1</b>	Location Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo

**Plan A-4**

Site Photos

**PLANNING DEPARTMENT  
JULY 2020**