

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

APPLICATION NO. A/YL-PH/851

- Applicant** : Chief Force Limited
- Site** : Lot 303 (Part) in D.D. 110, Pat Heung, Yuen Long
- Site Area** : About 800 m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : Renewal of Planning Approval for Temporary Shop and Services (Motor-vehicle Showroom) 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 shop and services (motor-vehicle showroom) for a period of 3 years. The Site is zoned “AGR” on the Pat Heung OZP and the proposed use is neither Column 1 nor Column 2 use in the “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 hard-paved and some vehicles are found on the Site (**Plans A-2 to A-4**).
- 1.2 The Site is the subject of two previous planning applications. The last application No. A/YL-PH/754 for the same applied use submitted by the same applicant was approved with conditions for 3 years by the Rural and New Town Planning Committee (the Committee) on 22.9.2017. All the approval conditions have been complied with and the planning permission is valid until 22.9.2020.

- 1.3 According to the applicant, 19 spaces will be provided at the Site for display and sale of vehicles. One single-storey structure (about 2.5m high) with a total floor area of 15m² for office will be erected at the Site. In addition, two visitor parking spaces for private cars and light goods vehicles not exceeding 5.5 tonnes will be provided. The operation hours are between 9:00 a.m. and 6:00 p.m. Mondays to Saturdays, and there is no operation on Sundays and public holidays. The Site is accessible via a local track leading from Kam Tai Road and Kam Tin Road to its south. The site layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 Compared with the approved application (No. A/YL-PH/754), the current application involves the same use, site area, boundary, layout and floor area.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with supplementary planning (**Appendix I**) statement and plans received on 23.7.2020
 - (b) Further Information (FI) received on 7.8.2020 in (**Appendix Ia**) response to departmental 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 planning statement in **Appendix I**. They are summarized as follows:

- (a) The use and layout of the current application is the same as the approved scheme. The applied use at the Site is mainly for the display and sale of vehicles. No permanent structures will be erected at the Site. The temporary nature of the applied use will not affect the long term planning intention of the “AGR” zone.
- (b) Drainage plan, landscape plan and fire service installations plan have been submitted to support the application. The existing trees, drainage facilities and fire service installations will be properly maintained. No adverse traffic impact is anticipated.
- (c) If the renewal application is approved, the applicant will comply with the approval conditions as soon as possible.

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. 31A) by posting site notice and sending notification letter 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**

The Town Planning Board Guidelines on ‘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.

5. **Background**

The Site is not subject to planning enforcement action.

6. **Previous Applications**

- 6.1 The Site is the subject of two previous applications, with one rejected and the other approved. Details of the applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.
- 6.2 Application No. A/YL-PH/622 submitted by a different applicant for temporary vehicle repair workshop for a period of 3 years was rejected by the Board on review on 13.1.2012 for the reasons that the proposed development was not in line with the planning intention of the “AGR” zone; the application did not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses in that no previous approval had been granted for the applied use at the site, no technical

assessments had been included to demonstrate there would be no adverse environmental and landscape impacts, and there were adverse departmental comments and local objections; the proposed development was not compatible with the surrounding areas; and approval of the application would set an undesirable precedent for similar applications within the “AGR” zone.

- 6.3 The last application No. A/YL-PH/754 for the same applied use as the current application was approved with conditions by the Committee on 22.9.2017 mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “AGR” zone; the applied use was not incompatible with the surrounding land uses; relevant government departments consulted generally had no adverse comment; and the concern on landscape aspect and relevant departments’ technical requirements could be addressed by imposing approval conditions. All the approval conditions of the application have been complied with and the planning permission is valid until 22.9.2020.

7. **Similar Application**

There is one similar application within the same “AGR” zone on the OZP. Application No. A/YL-PH/766 for proposed temporary shop and services (sales of vehicle parts) for a period of 3 years was approved with conditions by the Committee on 2.3.2018 mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “AGR” zone; the applied use was not incompatible with the surrounding land uses; relevant government departments consulted generally had no adverse comment; and the concern on landscape aspect and relevant departments’ technical requirements could be addressed by imposing approval conditions. Details of the application are summarized in **Appendix III** and its location is shown on **Plan A-1**.

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

- 8.1 The Site is:
- (a) fenced and hard-paved with some vehicles; and
 - (b) accessible via a local track branching off Kam Tai Road and Kam Tin Road.
- 8.2 The surrounding areas are rural in character intermixed with open storage / storage yards, residential structures/dwellings, cultivated agricultural land and vacant/unused land. The open storage / storage yards are suspected unauthorized development subject to enforcement action by the Planning Authority:

- (a) to its north, east and west are open storage / storage yards (including a site with valid planning permission under application No. A/YL-PH/766 for temporary shop and services (sales of vehicle parts) to its immediate east), residential structures/dwellings, cultivated agricultural land and vacant / unused land; and
- (b) to its south across a nullah are open storage yard, residential structures / dwellings, cultivated agricultural land and vacant / unused land.

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 an Old Scheduled 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.
- (b) 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. Applications for any of the above will be considered by LandsD acting in the capacity as the 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 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, HyD):

- (a) Part of Kam Tai Road is maintained by his office.
- (b) HyD shall not be responsible for the maintenance of any access connecting the Site and the part of Kam Tai Road maintained by his office.
- (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):

There was no environmental complaint concerning the Site received in the past three 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

10.1.5 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 landscape planning perspective.
- (b) Based on the aerial photo taken on 18.10.2019, the Site is situated in an area of rural landscape character comprising scattered tree groups, open storage, temporary structures and abandoned farmlands. Comparing the aerial photos taken in 2017 and 2019, there is no significant change to the surrounding landscape setting since the application was last approved. Further significant adverse impact on landscape resources due to the proposed development is not anticipated.
- (c) It is noted that approval conditions on submission and implementation of landscape proposal in the previous application No. A/YL-PH/754 have been complied with. Should the application be approved, a condition to maintain the existing trees and landscape plantings within the Site in a healthy condition at all times during the planning approval period should be included.

Drainage

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

- (a) He has no in-principle objection to the development.
- (b) Presumably the applicant would maintain the same drainage facilities as those implemented under previous application No. A/YL-PH/754.
- (c) Should the application be approved, approval conditions on the maintenance of the drainage facilities implemented under application No. A/YL-PH/754 and submission of record of the existing drainage facilities on-site should be included in the planning permission.

Fire Safety

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

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

Building Matters

10.1.8 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) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are unauthorized building works (UBW) under the Buildings Ordinance (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 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.
- (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) If the Site does not abut on a specified street of not less than 4.5 m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

Agriculture

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

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

District Officer's Comments

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

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

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

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

11. Public Comment Received During Statutory Publication Period

On 31.7.2020, the application was published for public inspection. During the three-week statutory publication period, one public comment was received from an individual (**Appendix IV**), commenting that the application should be considered under the correct land use zoning.

12. Planning Considerations and Assessments

12.1 The application is for renewal of planning approval for temporary shop and services (motor vehicles showroom) at "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. It is also intended 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 against the application. It is considered that approval of the application on a temporary basis 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 intermixed with storage use, residential structures / dwellings, cultivated agricultural land and vacant / unused land.

12.3 The application is in line with TPB PG-No.34C in that previous approval for the same applied use (No. A/YL-PH/754) was granted in 2017 and all the approval conditions have been complied with. Compared with the last approved application, the current application submitted by the same applicant is the same in terms of use, site area, boundary, layout and floor area. Besides, there is no major change in planning circumstances since the last approval.

- 12.4 Relevant government departments consulted including C for T, DEP, CE/MN of DSD, CTP/UD&L of PlanD, DAFC and D of FS have no adverse comment on the application. To minimize the possible environmental nuisance generated by the development, approval conditions restricting the operation hours and vehicle type are recommended in paragraph 13.2 (a) to (c) 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”. Moreover, the technical requirements of C for T, CE/MN of DSD, CTP/UD&L of PlanD and D of FS could be addressed by approval conditions in paragraph 13.2 (d) to (h) below.
- 12.5 Apart from the previous approval for the same applied use granted for the Site in 2017, there is one similar application within the same “AGR” zone for shop and services (sales of vehicle parts) approved with conditions by the Committee on 2.3.2018. Approval of the current application is in line with the Committee’s previous decision.
- 12.6 One public comment was received during the statutory publication period, commenting on the application as stated in paragraph 11 above. In this regard, relevant Government departments’ comments as well as planning assessments and considerations as stated above are relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment as mentioned in paragraph 11 above, the Planning Department considers that the temporary shop and services (motor vehicle showroom) 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 23.9.2020 to 22.9.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 6 p.m. and 9 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 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 vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of a record of the existing drainage facilities on the Site within **3** months from the date of commencement of the renewal planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 23.12.2020;
- (g) the existing trees and landscape plantings within the Site shall be maintained at all times during the planning approval period;
- (h) the existing fire service 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 condition (a), (b), (c), (d), (e), (g) 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 (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
- (k) 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.

[The above planning conditions are largely the same as those under the planning permission of previous Application No. A/YL-PH/754, except change/deletion of those on drainage, FSIs and landscape aspects based on the comments of CE/MN of DSD, D of FS and CTP/UD&L of PlanD respectively.]

Advisory Clauses

The recommended advisory clauses are 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

Appendix I	Application form with supplementary planning statement and plans received on 23.7.2020
Appendix Ia	FI received on 7.8.2020
Appendix II	Previous s.16 applications covering the Site
Appendix III	Similar application within the same “AGR” zone on the approved Pat Heung OZP
Appendix IV	Public comment received during the statutory publication period
Appendix V	Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos