

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

**APPLICATION NO. A/YL-PH/852**

- Applicant** : Chief Force Limited represented by Top Bright Consultants Limited
- Site** : Lots 163 (Part), 164 (Part) and 166 (Part) in D.D. 108, Fan Kam Road, Pat Heung, Yuen Long
- Site Area** : About 442 m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Residential (Group D) (“R(D)”)”  
[maximum plot ratio of 0.2 and building height of 2 storeys (6m)]
- Application** : Proposed Temporary Private Vehicle Park (Private Cars Only) 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 private vehicle park (private cars only) for a period of 3 years. The Site is zoned “R(D)” and the applied use is neither a Column 1 nor Column 2 use in the “R(D)” zone. According to the Notes of the OZP, temporary use or development 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 partly vacant and partly used for parking of vehicles without valid planning permission (**Plans A-2 to A-4**).
- 1.2 Part of the Site is the subject of an application covering a larger area for temporary open storage which was rejected by the Rural and New Town Planning Committee (the Committee) in 1998.
- 1.3 According to the applicant, a total of 9 parking spaces for private cars for the nearby villagers/residents will be provided on-site. No structure will be erected on-site. The operation hours will be 24 hours daily. The Site is accessible to Fan Kam Road via a local track. The site layout plan submitted by the applicant is at

### **Drawing A-1.**

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

- (a) Application form with supplementary statement and plans received on 28.7.2020 **(Appendix I)**
- (b) Further Information (FI) dated 14.9.2020 in response to departmental comments **(Appendix Ia)**  
*(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**, and are briefly summarized as follows:

- (a) The public transportation service in the area is limited and the villagers/residents have genuine need for commuting by private cars, particularly due to the coronavirus pandemic.
- (b) The Site was subject to an Enforcement Notice (EN) (No. E/YL-PH/809) issued in 2019<sup>1</sup> and the application is for regularizing the vehicle park use. After the issue of EN, the private cars have been parking at road side and causing nuisance to other users of the road. The proposed development offers a temporary solution to meet demand for parking in Ta Shek Wu area.
- (c) Temporary use of the proposed development would not frustrate the long-term planning intention, and can efficiently utilize land resources. The proposed development is compatible with the surrounding land uses. No workshop, construction or vehicle repair activities will be carried out at the Site. No adverse environmental, drainage and traffic impacts are anticipated.

## **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 section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting site notice and sending notice to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

## **4. Background**

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

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<sup>1</sup> EN (No. E/YL-PH/809) was issued on 26.3.2019 requiring discontinuation of an unauthorized development (UD) involving use for parking of vehicles and storage use (including deposit of containers). Compliance Notice was subsequently issued on 27.9.2019.

## 5. Previous Application

The western part of the Site is the subject of a previous application (No. A/YL-PH/240) covering a larger site area for temporary open storage of construction materials (iron frames) for a period of 12 months. It was rejected by the Committee in 1998 mainly on the grounds that the applied use was not in line with the planning intention of the “R(D)” zone; not compatible with the nearby village houses; there was insufficient information to demonstrate that there would be a proper vehicular access and would not have adverse drainage impact; and approval of the application would set an undesirable precedent. Details of the application are summarized in **Appendix II** and its location is shown on **Plan A-1**.

## 6. Similar Applications

- 6.1 There are seventeen similar applications for various temporary parking uses in the same “R(D)” zone. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.

### Ten approved applications

- 6.2 Ten applications for temporary public car park without medium goods vehicles/ container vehicles were approved with conditions by the Committee between 1997 and 2020 mainly on the considerations that temporary approval of the application would not frustrate the long-term planning intention of the “R(D)” zone; the proposed development was not incompatible with the surroundings; no adverse environmental impacts were anticipated; relevant departments consulted had no adverse comments on the application; and concerns of relevant departments could be addressed by approval conditions. The planning permissions of five applications were revoked due to non-compliance with approval conditions.

### Seven rejected applications

- 6.3 The other seven applications for temporary vehicle park involving private car/ lorry/ coach/ heavy vehicles/ tractor/ container vehicles (with/ without open storage) were rejected by the Committee or the Board on review between 1994 and 2020. They were rejected mainly for the reasons that the proposed development was not in line with the planning intention of the “R(D)” zone; it did not comply with the Town Planning Board Guidelines for “Application for Open Storage and Port Back-Up Uses”; it was not compatible with the surrounding areas; there was insufficient information to demonstrate that the development would not cause adverse environmental/ landscape/ drainage/ traffic impacts on the surrounding areas; and approval of the application would set an undesirable precedent.

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

7.1 The Site is:

- (a) partly vacant and partly used for parking of vehicles without valid planning permission; and
- (b) accessible to Fan Kam Road via a local track.

7.2 The surrounding area is rural in character intermixed with residential dwellings/structures, open storage yards, orchards and vacant/unused land. Some of the open storage yards are suspected unauthorized development subject to planning enforcement action by the Planning Authority:

- (a) to its east are unused land and a cluster of residential dwellings/structures. The further southeast is unused land zoned “Conservation Area” (“CA”);
- (b) to its south and southwest are unused land, a temporary open storage yard with valid planning permission (No. A/YL-PH/801) and residential structures/dwellings. A stream and orchards are located further southwest of the Site; and
- (c) to its north are residential structures/dwellings, open storage yards and unused land.

**8. Planning Intention**

The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.

**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 of LandsD):

- (a) The Site comprises 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.

- (b) Within the Site, a private lot (No. 164 in D.D. 108) is covered by Short Term Waiver (STW) No. 3983 permitted for “Open Storage of Excavators, Loaders and Construction”.
- (c) Should planning approval be given to the planning application, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate and the lot owner(s) of the lot(s) without STW will need to apply to his office to permit the structure 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 the LandsD.

### **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 Transport 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/New Territories West, Highways Department (CHE/NTW of HyD):

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

### **Nature Conservation**

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

He has no adverse comments on the application from nature conservation point of view. The Site falls within the "Residential (Group D)" zone and is currently a paved vacant land with a natural stream to the west. It is noted from the supplementary planning statement attached to the application that the proposed use will be solely used as a private car park while no workshop, construction or vehicle repair activities will be carried out at the Site. Disturbance to the nearby natural stream is not anticipated.

### **Environment**

9.1.5 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.

### **Drainage**

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

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

### **Fire Safety**

9.1.7 Comment of the Director of Fire Services (D of FS):

- (a) He has no objection in principle to the proposal subject to fire service installations being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to

submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSI to be installed should be clearly marked on the layout plans.

### **Water Supplies**

9.1.8 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C of WSD):

- (a) He has no objection to the application.
- (b) Existing water mains will be affected as shown on **Plan A-2**. The cost of any necessary diversion shall be borne by the proposed development. In case it is not feasible to divert the affected water mains, a waterworks reserve within 1.5 meters from the center line of the water main shall be provided to WSD. No structure shall be built or materials stored within this waterworks reserve. Free access shall be made available at all times for staff of the Director of Water Supplies or their contractor to carry out construction, inspection, operation, maintenance and repair works.
- (c) No trees or shrubs with penetrating roots may be planted within the Waterworks Reserve or in the vicinity of the water main shown on **Plan A-2**.
- (d) Government shall not be liable to any damage whatsoever and howsoever caused arising from burst or leakage of the public water mains within and in close vicinity of the Site.

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

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

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

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

- (a) Project Manager/West, Civil Engineering and Development Department;
- (b) Chief Building Surveyor/New Territories West, Buildings Department;
- (c) Director of Electrical and Mechanical Services; and
- (d) Commissioner of Police.

## **10. Public Comments Received During the Statutory Publication Period**

On 7.8.2020, the application was published for public inspection. During the three-week statutory publication period, two public comments from individuals (**Appendices IV-1 to IV-2**) were received. The comments object to the application mainly on the grounds that the proposed use will increase the traffic flow and adversely affect the safety and living environment of the villagers; the applied use is intended to legitimize existing brownfield use; there is no justification to approve brownfield activity near “CA” zone; and there is an application (No. A/YL-PH/849) with similar nature and location.

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

- 11.1 The application is for proposed temporary private vehicle park (private cars only) for a period of 3 years at “R(D)” zone. The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. The proposed use is not in line with the planning intention of the “R(D)” zone. Nevertheless, there is no known programme for permanent development at this part of the “R(D)” zone. It is considered that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(D)” zone.
- 11.2 The proposed private car park involves parking of private cars and is considered not incompatible with the surrounding area which is rural in character intermixed with residential dwellings/ structures and vacant/unused land. According to the applicant, the proposed private car park is to serve the nearby villagers/residents.
- 11.3 Relevant departments consulted including C for T, DAFC, DEP, CE/MN of DSD and D of FS have no adverse comment on the application. To minimize any possible environmental nuisance generated by the proposed development, approval conditions restricting the types of vehicles are recommended in paragraph 12.2 (a) to (c) below. The applicant would also be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”. The technical requirements of C for T, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 12.2 (d) to (i).
- 11.4 Part of the Site is the subject a previous application for temporary open storage use which was rejected by the Committee in 1998. The current application is for a different use. There are seventeen similar applications for temporary vehicle park within the same “R(D)”, with 10 approved and 7 rejected. All the approved similar applications were for temporary public car park without medium goods vehicles/ container vehicles, while the rejected applications involved lorry/ coach/ heavy vehicles/ tractor/ container vehicles. Approval of the current application involving private cars only is in line with the Committee’s previous decision on the similar applications.
- 11.5 Two public comments were received during the statutory publication period, objecting to the application as stated in paragraph 10 above. In this regard, the departmental comments and 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 comments mentioned in paragraph 10 above, the Planning Department considers that the proposed temporary private vehicle park (private cars only) 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 18.9.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

### Approval Conditions

- (a) 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;
- (b) no vehicles without valid licences issued under the Road Traffic (Registration and Licensing of Vehicles) Regulations are allowed to be parked/stored on the Site at any time during the planning approval period;
- (c) a notice should be posted at a prominent location of the Site to indicate that 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 all times 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 submission of 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 18.3.2021;
- (f) in relation to (e) above, the implementation of 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 18.6.2021;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of 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 18.3.2021;

- (i) in relation to (h) above, the implementation of 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 18.6.2021;
- (j) if any of the above planning condition (a), (b), (c), (d) or (g) 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
- (k) if any of the above planning condition (e), (f), (h) 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.

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 intention of the "R(D)" zone which is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

Advisory clauses

The recommended advisory clauses are attached at **Appendix V**.

**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 with supplementary statement and plans received on 28.7.2020

**Appendix Ia**                     FI dated 14.9.2020

<b>Appendix II</b>	Previous application
<b>Appendix III</b>	Similar applications within the same “R(D)” zone
<b>Appendices IV-1 to IV-2</b>	Public comments received during the statutory publication period
<b>Appendix V</b>	Advisory clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan with previous and similar applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a to 4b</b>	Site Photos

**PLANNING DEPARTMENT  
SEPTEMBER 2020**