

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

**APPLICATION NO. A/YL-PH/853**

- Applicant** : Chief Force Limited
- Site** : Lots 83 (Part), 85 RP (Part), 86 (Part), 87 S.B (Part), 87 RP (Part) and 92 RP (Part) in D.D. 111 and Adjoining Government Land, Shui Kan Shek, Pat Heung, Yuen Long
- Site Area** : About 1,318 m<sup>2</sup> (including Government land of about 110m<sup>2</sup> (about 8%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Village Type Development” (“V”)  
[Maximum building height of 3 storeys (8.23m)]
- Application** : Renewal of Planning Approval for Temporary Car Park for Villagers (Excluding Container Vehicle) for a Period of 2 Years

**1. The Proposal**

- 1.1 The applicant seeks renewal of planning permission to use the application site (the Site) for temporary car park for villagers (excluding container vehicle) for a period of 2 years. The Site is zoned “V” and the applied use is neither a Column 1 nor Column 2 use in the “V” zone. According to the Notes of the OZP, temporary use or development not exceeding a period of 3 years requires 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 to A-4**).
- 1.2 The Site is the subject of five previous applications. The last application (No. A/YL-PH/792) submitted by the same applicant for the same applied use was approved by the Rural and New Town Planning Committee (the Committee) on 5.10.2018. All the approval conditions have been complied with and the planning permission is valid until 31.10.2020.

- 1.3 According to the applicant, a total of 15 parking spaces for private cars are provided within the Site. No structure will be erected on-site and no vehicle exceeding 5.5 tonnes will enter the Site. The operation hours is 24 hours daily. The Site is accessible via a local track branching off Fan Kam Road. The site layout plan with landscape, drainage and fire service installations proposals submitted by the applicant is at **Drawing A-1**.
- 1.4 Compared with the last approved application No. A/YL-PH/792, the current application submitted by the same applicant is the same in terms of applied use, site area/boundary and number of car parking spaces.
- 1.5 In support of the application, the applicant has submitted:
  - (a) Application form with planning statement and **(Appendix I)** supplementary information received on 17.8.2020 and 24.8.2020
  - (b) Further Information (FI) dated 29.9.2020 in response to **(Appendix Ia)** 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 **Appendix I**, and are briefly summarized as follows:

- (a) The applied use is temporary in nature and would not frustrate the long-term planning intention of the “V” zone.
- (b) The applied use is to serve the nearby residents in Shui Kan Shek free of charge. Relevant regulations are implemented to minimize the possible nuisance to the nearby residents, such as posting a notice at the Site to prohibit honking and parking of vehicles exceeding 5.5 tonnes among others. Also, the lighting of the Site will be turned off after 11:30p.m..
- (c) There is no change from the previous application (No. A/YL-PH/792) in terms of use, area and layout and there were no adverse departmental comment or local objections during the last application. The landscaping, drainage facilities and fire services installations will be properly maintained.

## **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 requirement 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 notice at the Site and sending notice 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. Town Planning Board Guidelines**

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 (the approval period for renewal should not be longer than the original validity period of the temporary approval); and
- (e) any other relevant considerations.

#### **5. Background**

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

#### **6. Previous Applications**

- 6.1 The Site is the subject to five previous planning applications for vehicle park use. 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/642 for public vehicle park (private cars and light goods vehicles) was rejected by the Committee in 2012 on the grounds that the development was not in line with the planning intention; and that the site was located within a village cluster and the applicants failed to demonstrate that the development would not have adverse environmental impacts on the adjacent residential dwellings.
- 6.3 Four applications for temporary car park for villagers (excluding container vehicles) (No. A/YL-PH/653, 703, 737 and 792) were approved with conditions by the Committee or the Board on review between 2014 and 2018 for one or two years mainly on the grounds that temporary approval of the application would not jeopardise the long-term planning intention of the “V” zone; the development was considered not incompatible with the surrounding land uses; and relevant Government departments consulted had no adverse comments on the application. For the last approved application no. A/YL-PH/792, all the approval conditions

have been complied with and the planning permission is valid until 31.10.2020.

## **7. Similar Applications**

- 7.1 There are five similar applications for vehicle park within the same “V” zone or straddle the same “V” zone and other zone. Details of the applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1**.
- 7.2 Three applications for public car/lorry park (No. A/YL-PH/84, 181, 291) were approved with conditions by the Committee or the Board on review between 1997 and 1999 for a period of 3 years for similar reasons that the development could meet some of the parking demand; the development was compatible with and functional in supporting the village type development; and the relevant departments had no adverse comment on the application.
- 7.3 Two applications for open carpark and public vehicle park (No. A/DPA/YL-PH/18 and A/YL-PH/569) were rejected by the Committee in 1993 and 2008 on the grounds that the proposed development was not in line with the planning intention of the “V” zone; there was insufficient information in the submission to demonstrate that the proposed development would not cause adverse environmental, traffic, drainage and landscape impacts on the surrounding areas; the main water pipeline may be adversely affected; and/or there was no previous planning approval granted for the site and there were adverse public and departmental comments.

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

- 8.1 The Site is:
  - (a) used for the applied use with valid planning permission; and
  - (b) accessible to Fan Kam Road via a local track.
- 8.2 The surrounding area is rural in character predominated by residential dwellings/structures, parking of vehicles, open storage/storage yards and vacant/unused land. Some of them are suspected unauthorized development subject to enforcement action by the Planning Authority:
  - (a) the Site is surrounded by village houses and a residential development namely the Arbutus on the east, west and north;
  - (b) to its further north are open storage yards, parking of vehicles and unused land;
  - (c) to its further east is unused land. To its further west is a “Residential (Group D)” zone occupied by open storage yards; and
  - (d) to its south are open storage/storage yards and vacant land.

## 9. **Planning Intention**

The planning intention of the “V” zone is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services. Selected commercial and community uses serving the needs of the villagers and in support of the village development are always permitted on the ground floor of a New Territories Exempted House (NTEH). Other commercial, community and recreational uses may be permitted on application to the Board.

## 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 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 110m<sup>2</sup> subject to verification) included in the Site. The applicant’s attention is drawn to the fact that any occupation of GL without Government’s prior approval is not allowed.
- (c) Should the planning 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. Furthermore, the applicant has to either exclude the GL from the Site or obtain a formal approval prior to the actual occupation of the GL. 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 the LandsD.
- (d) There is no Small House application approved or under processing at the Site.

## **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 the Site 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) 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.

## **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.

## **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 in 2019, the Site is situated in an area of rural landscape character comprising of scattered tree groups and village houses. The development is considered not incompatible with the surrounding environment. Comparing the aerial photos taken in 2018 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 development is not anticipated.

### **Nature Conservation**

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

He has no comment on the application from nature conservation point of view noting that the Site has been paved for the applied use for some years and the application is a renewal application of the existing use.

### **Drainage**

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

- (a) He has no objection in principle to the development.
- (b) Based on the submitted drainage proposal, the applicant would maintain the same drainage facilities as provided under the previous application No. A/YL-PH/792.
- (c) Should the application be approved, approval conditions requiring the maintenance of the drainage facilities implemented under Application No. A/YL-PH/792 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.

### **Fire Safety**

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

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

### **Water Supply**

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

- (a) He has no objection to the application.
- (b) Existing water mains will be affected as shown on the **Plan A-2**. A waterworks reserve within 1.5 metres from the center line of the water main shall be provided to WSD. No structure shall be built and no materials shall be 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.
- (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**

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

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

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

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

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

On 28.8.2020, the application was published for public inspection. During the three-week statutory publication period, two comments (**Appendices IV-1 and IV-2**) were received from individuals. They object to the application mainly on the grounds that the applied use would generate more traffic and adversely affect the safety and quality of life of the residents; the applied use is a waste of land resources; and the GL should be used for community/recreational uses.



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

- 12.1 The application is for renewal of planning permission for temporary car park for villagers (excluding container vehicle) for a period of 2 years within the “V” zone. 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. Although the applied use is not in line with the planning intention of the “V” zone, DLO/YL of LandsD advised that there is no Small House application approved or under processing at the Site. It is considered that temporary approval of the application would not frustrate the long-term planning intention of the “V” zone.
- 12.2 The applied use is considered not incompatible with the surrounding area which is rural in character predominated by residential dwellings/structures and vacant/unused land. According to the applicant, the applied use is mainly to serve the nearby residents in Shui Kan Shek.
- 12.3 The application is in line with the TPB PG-No. 34C in that all approval conditions of the last approved application (No. A/YL-PH/792) have been complied with. Compared with the last approved application, the current application is the same in terms of applied use, site area/boundary, number of car parking spaces and duration of approval sought (i.e. 2 years). Besides, there is no major change in planning circumstances since the last approval.
- 12.4 Relevant departments consulted including C for T, DEP, D of FS, CE/MN of DSD and UD&L of PlanD have no adverse comment on the application. To minimize the possible environmental nuisance generated by the development, approval conditions restricting the types of vehicles and implementation of mitigation measure to minimize nuisance are recommended in paragraph 13.2 (a) to (f) below. The applicant is also 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 13.2 (g) to (j).
- 12.5 The Site is the subject of five previous applications for temporary car park with the last 4 for the same applied use as the current application approved between 2014 and 2018. There are also five similar applications for vehicle park within the same “V” or straddle the same “V” zone and adjoining “R(D)” zone, with 3 approved and 2 rejected as detailed in paragraph 7 above.
- 12.6 Two public comments were received during the statutory publication period, objecting to the application as stated in paragraph 11 above. In this regard, the departmental comments and planning considerations and assessments 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 comments as mentioned in paragraph 11 above, the Planning Department has no objection to the temporary car park for villagers (excluding container vehicle) for a period of 2 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 2 years, and be renewed from 1.11.2020 to 31.10.2022. The following conditions of approval and advisory clauses are also suggested for Members' reference:

#### Approval Conditions

- (a) 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;
- (b) 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;
- (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) a vehicular access of 4.5m in width within the Site, as proposed by the applicant, shall be maintained at all times during the planning approval period;
- (e) the mitigation measures (including the dimming of lights after 11:30 p.m. within the Site and posting of notice and rules at prominent location of the Site forbidding honking and engine noise when parking at the Site) implemented under the previous approval to minimize any possible nuisance of noise and artificial lighting on the Site to the residents nearby, as proposed by the applicant, shall be maintained at all times during the planning approval period;
- (f) a notice should be posted at a prominent location of the Site to indicate the set of rules for using the development, as proposed by the applicant, at all times during the planning approval period;
- (g) no vehicle is allowed to queue back to or reverse onto/from the Site at any time 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) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (j) the submission of a 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 Board by 1.2.2021;
- (k) if any of the above planning condition (a), (b), (c), (d), (e), (f), (g), (h) or (i) 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
- (l) if the above planning condition (j) 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.

*[The above planning conditions are largely the same as those under planning permission of previous Application No. A/YL-PH/792, except change/deletion of those on, landscape and fire services installations based on the comments of UD&L of PlanD and D of FS respectively.]*

- 13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

the development is not in line with the planning intention of the "V" zone which 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. 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**.

**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 planning statement and supplementary information received on 17.8.2020 and 24.8.2020
<b>Appendix Ia</b>	FI dated 29.9.2020
<b>Appendix II</b>	Previous applications covering the Site
<b>Appendix III</b>	Similar applications within the same “V” zone
<b>Appendix IV</b>	Public comments received during the statutory publication period
<b>Appendix V</b>	Advisory clauses
<b>Drawing A-1</b>	Layout Plan with Landscape, Drainage and Fire Services Installation Proposal
<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>Plan A-4</b>	Site Photos

**PLANNING DEPARTMENT  
OCTOBER 2020**