RNTPC Paper No. A/YL-PH/874 For Consideration by the Rural and New Town Planning Committee on 26.2.2021

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

APPLICATION NO. A/YL-PH/874

Applicant : Chief Force Limited

Site : Lot 303 (Part) in D.D. 110, Pat Heung, Yuen Long

Site Area : About 790m²

<u>Lease</u>: 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 (Sales of

Vehicle Parts) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning approval to use the application site (the Site) for temporary shop and services (sales of vehicle parts) for a period of 3 years. The Site falls within an area zoned "AGR" on the approved Pat Heung OZP and the applied use is neither a Column 1 nor Column 2 use in the "AGR" zone. According to the covering Notes of the OZP, temporary use not exceeding a period of 3 years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is hard-paved and some vehicle parts are found on the Site (Plans A-2 and A-4). All the approval conditions of the last approved application No. A/YL-PH/766 have been complied with and the planning permission is valid until 2.3.2021.
- 1.2 According to the applicant, the development involves a one-storey structure with a total floor area of about 15m² and building height of 2.5m for temporary office use. Some display racks and cabinets (3m high) are erected on Site to display various vehicle parts. No workshop activities will be carried out at the Site. The operation hours are between 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays. No vehicles exceeding 5.5

tonnes will enter/exit the Site. One parking space for private car and one parking space for light goods vehicle are provided. The Site is accessible via a local track branching off Kam Tai Road. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 When compared with the last approved application No. A/YL-PH/766, the current application submitted by the same applicant is the same in terms of applied use, site area, floor area and layout.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary statement and (Appendix I) plans received on 30.12.2020
 - (b) Further Information (FI) dated 10.2.2021, 16.2.2021 (Appendix Ia) and 17.2.2021 in response to departmental comments [exempted from publication requirement]
 - (c) FI dated 22.2.2021 in response to departmental (Appendix Ib) comments

 [exempted from publication requirement]

2. <u>Justifications from the Applicant</u>

The justifications put forth by the applicant in support of the application are detailed in the supplementary statement in **Appendix I**. They can be summarized as follows:

The applied use is temporary in nature and would not jeopardize the long-term planning intention of the "AGR" zone. There was no complaint from government departments and nearby residents in the last application and the Site has been kept in good condition. The applicant has also complied with all approval conditions in the previous permission. The existing trees and fire services installations at the Site will be properly maintained.

3. Compliance with the "Owner's Consent/Notification" Requirements

The applicant is not a "current land owner" but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the "Owner's Consent/Notification" Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting notice and sending notice to the Pat Heung Rural Committee by registered mail. Detailed information would be deposited at the meeting for Member's inspection.

4. Town Planning Board Guidelines

The Town Planning Board Guidelines for 'Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development' (TPB PG-No. 34C) are relevant to this application. The relevant assessment criteria are extracted below:

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

5. Background

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

6. Previous Applications

- 6.1 The Site is subject to 2 previous applications (Nos. A/YL-PH/751 and 766) both submitted by the same applicant of the current application. Details of the previous applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.
- 6.2 Application No. A/YL-PH/751 for temporary open storage of vehicle parts for 3 years was rejected by the Committee in 2017 on the consideration that the proposed development did not comply with the Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E) in that no previous approval was granted at the Site; there were adverse departmental comments and public objections; the applicant failed to demonstrate that the proposed development would not generate adverse environmental impacts on the surrounding areas; and the approval of the application would set an undesirable precedent.

6.3 The last application No. A/YL-PH/766 for the same applied use for 3 years was approved with conditions by the Committee in 2018 taking into consideration that the approval of the application on a temporary basis would not frustrate the long-term planning intention of the "AGR" zone; the proposed use was considered not incompatible with the surrounding land uses; relevant government departments in general had no adverse comment on the application; and departmental concerns would be addressed by approval conditions. All the approval conditions have been complied with and the planning permission is valid until 2.3.2021.

7. <u>Similar Applications</u>

There are two similar applications (No. A/YL-PH/754 and 851) submitted by the same applicant of the current application for temporary shop and services (motor-vehicle showroom) adjoining the Site within the same "AGR" zone on the OZP. The applications were approved with conditions by the Committee in 2017 and 2020 for 3 years on similar considerations that temporary approval would not frustrate the long-term planning intention of the "AGR" zone; the development was not incompatible with the surrounding land uses; and relevant government departments generally had no adverse comments on the application. Details of the applications are summarized in **Appendix III** and their locations are shown on **Plan A-1**.

8. The Site and Its Surrounding Areas (Plans A-2 to A-4)

- 8.1 The Site is:
 - (a) paved and fenced with some vehicle parts found on the Site; and
 - (b) accessible via a local track branching off Kam Tai Road to the south.
- 8.2 The surrounding areas are rural in character intermixed with residential dwellings/structures, open storage yards, cultivated agricultural land and vacant/unused land:
 - (a) to its immediate west is a site subject to planning permission for shop and services (motor-vehicle showroom) use. To the further west are open storage yard and vacant land;
 - (b) to its north are residential dwellings/structures, unused land and open storage/storage yards;
 - (c) to its immediate east and south are unused land and a nullah. Further east and south are cultivated agricultural land, unused land and residential dwellings/ structures.

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 Schedule Agricultural Lot held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without 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 the LandsD acting in the capacity as 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 rent or fee, as may be imposed by the 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 the Transport Department. The land status of the local access road should be checked with 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/NT West, Highways Department (CHE/NTW, HyD):
 - (a) His department shall not be responsible for the maintenance of any access connecting the Site and Kam Tai Road.
 - (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

Agriculture

10.1.4 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.

Environment

- 10.1.5 Comments of the Director of Environmental Protection (DEP):
 - (a) There was no environmental complaint concerning the Site received by DEP in the past three years.
 - (b) 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

- 10.1.6 Comments of the Chief Town Planner/Urban Design and Landscape, Planning Department (CTP/UD&L, PlanD):
 - (a) He has no objection to the application from the landscape planning perspective.

- (b) Based on the aerial photo taken in 2019, the Site is situated in an area of miscellaneous rural fringe landscape character composed of temporary structures, scatter tree groups and farmlands. The development is considered not incompatible with the surrounding environment. Comparing the aerial photos taken in 2016 and 2018, there is no significant change to the surrounding landscape setting since the application was last approved.
- (c) With reference to layout plan in the planning statement, the location of structure A is same as the previous application and the existing trees are not in conflict with the layout. Given that the trees will be preserved by the applicant, significant adverse impact on existing landscape resources arising from the continuous use within the Site is not anticipated.
- (d) Should the application be approved, approval condition on maintenance of all existing tress within the Site satisfactorily at all times during the planning approval should be included.
- (e) The applicant is reminded that approval of the application does not imply approval of tree works such as pruning, transplanting and felling under lease. Tree removal applications should be submitted direct to DLO for approval.
- (f) With reference to the site visit record, the 7 nos. of tree planted should be *Ficus hispida*. (對葉榕). The applicant should revise the landscape layout plan accordingly.

Fire Safety

10.1.7 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.

Drainage

- 10.1.8 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 supplementary statement, apparently the applicant would maintain the same drainage facilities as those implemented under the previous Application No. A/YL-PH/766.

(c) Should the application be approved, approval conditions requiring the maintenance of the drainage facilities implemented under Application No. A/YL-PH/766 and submission of records of the existing drainage facilities on the Site to the satisfaction of the Director of Drainage Services or of the Board should be included.

Building Matters

- 10.1.9 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) 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 building works in accordance with the BO.
 - (b) His detailed comments on UBW and provision of access are at **Appendix V**.

District Officer's Comments

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

His office has not received any locals' comment on the application and he has no comment on the application.

- 10.2 The following Government departments have no comment on the application:
 - (a) Director of Electrical and Mechanical Services;
 - (b) Chief Engineer/Construction, Water Supplies Department;
 - (c) Project Manager/New Territories West, Civil Engineering and Development Department; and
 - (d) Commissioner of Police.

11. Public Comments Received During Statutory Publication Period

On 24.11.2020, the application was published for public inspection. During the three-week statutory publication period, two public comments from individuals were received (**Appendices IV-1 and IV-2**). The comments object to the application mainly on the grounds that the applied use will increase traffic flow and cause traffic congestion, environmental pollution, increase fire hazard risk, and affect safety and living standard of

the villagers; and whether the current operation of the Site is in line with the approved use and conditions should be considered.

12. Planning Considerations and Assessments

- 12.1 The application is a renewal application for temporary shop and services (sales of vehicle parts) for a period of 3 years in the "AGR" zone. The planning intention of the "AGR" zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The applied use is not in line with the planning intention of the "AGR" zone. Nevertheless, 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 applied use is considered not incompatible with the surrounding land uses which are intermixed with residential dwellings/structures, cultivated agricultural land and vacant/unused land.
- 12.3 The application is generally in line with the TPB PG-No. 34C in that previous approval for the same applied use (No. A/YL-PH/766) was granted in 2018 and all the approval conditions have been complied with. Comparing to the last approved application, the current application is submitted by the same applicant for the same use with the same site area, floor area and layout. Besides, there is no major change in planning circumstances since the last approval.
- 12.4 Relevant departments consulted including C for T, DEP, CE/MN of DSD, CTP/UD&L of PlanD and D of FS have no adverse comment on the application. To minimize any possible environmental nuisance generated by the development, approval conditions restricting the operation hours and vehicle type are recommended in paragraphs 13.2 (a) to (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 of T, CTP/UD&L of PlanD, CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 13.2 (e) to (j) below.
- 12.5 Two public comments objecting to the application were received during the statutory publication period as mentioned in paragraph 11 above. In this regard, the departmental comments and planning assessments and considerations above are relevant.

13. Planning Department's Views

Based on the assessments made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department

- considers that the temporary shop and services (sales of vehicle parts) <u>could be</u> <u>tolerated</u> 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 3.3.2021 to 2.3.2024. 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 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 trees within the Site shall be maintained satisfactorily at all times during the planning approval period;
- (f) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (g) the submission of records of the existing drainage facilities on the Site within 3 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 3.6.2021;
- (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 conditions (a), (b), (c), (d), (e), (f) or (h) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (j) if the above planning condition (g) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and

(k) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of the Director of Planning or of the Board.

[The above approval conditions are largely the same as those under the previous approved application No. A/YL-PH/766, except for change to those on tree preservation and landscape, drainage and fire services installations based on the comments of CTP/UD&L of PlanD, CE/MN of DSD and D of FS].

Advisory Clauses

The advisory clauses are in **Appendix V**.

13.3 There is no strong reason to reject the renewal application.

14. <u>Decision Sought</u>

- 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 statement and plans

received on 30.12.2020

Appendix Ia Further Information received on 10.2.2021, 16.2.2021 and

17.2.2021

Appendix Ib Further Information received on 22.2.2021

Appendix II Previous applications covering the Site

Appendix III Similar applications within the same "AGR" zone of the Site on

the Pat Heung OZP

Appendices IV-1

and IV -2

Public comments received during the statutory publication period

Appendix V Advisory Clauses

Drawing A-1 Site 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

PLANNING DEPARTMENT FEBRUARY 2021