

RNTPC Paper No. A/YL-KTN/704
For Consideration by
the Rural and New Town
Planning Committee
on 15.5.2020

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

APPLICATION NO. A/YL-KTN/704

- Applicant** : Chief Force Limited
- Site** : Lots 377 S.C RP (Part), 379 RP (Part), 380 RP (Part), 381 RP (Part), 382 RP (Part), 412 RP (Part) and 414 (Part) in D.D. 110, Pat Heung, Yuen Long
- Site Area** : About 5,460m²
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin North Outline Zoning Plan (OZP) No. S/YL-KTN/9
- Zoning** : “Agriculture” (“AGR”)
- Application** : Renewal of Planning Approval for Temporary Open Storage of Building Materials with Ancillary Site Office and Staff Restroom 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 open storage of building materials with ancillary site office and staff restroom for a period of 3 years. The Site is zoned “AGR” on the Kam Tin North OZP and the applied use is neither Column 1 nor Column 2 use in the “AGR” zone. According to the Notes of the OZP, temporary use not exceeding a period of 3 years, notwithstanding that the use or development is not provided for in terms of the OZP, requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with valid planning permission (**Plans A-2 and A-4a and A-4b**).
- 1.2 The Site was involved in six previous applications for various temporary open storage uses. The last application No. A/YL-KTN/553 for the same applied use as the current application was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 7.4.2017 for a period of 3 years. All the approval conditions have been complied with and the planning permission is valid until 23.5.2020.

- 1.3 According to the applicant, the development involves seven two-storey temporary structures with a total floor area of about 744m² and building height of 5m to 7.5m for site offices, staff restrooms and toilets. The open area is used for open storage of building materials. A total of 5 parking spaces for private car/light goods vehicle are provided at the Site. No goods vehicle exceeding 5.5 tonnes would be parked at the Site. The operation hours are from 9a.m. to 6p.m. on Mondays to Saturdays and there is no operation on Sundays and public holidays. The Site is accessible to Kam Tai Road via a local track. The vehicular access plan and layout plan with fire services installation, landscape and drainage proposals submitted by the applicant are at **Drawings A-1 and A-2**.
- 1.4 Compared with the last approved application No. A/YL-KTN/553, the current application is submitted by the same applicant for the same applied use with same site area, layout and total floor area.
- 1.5 In support of the application, the applicant has submitted the following documents :
- (a) Application form with planning statement and plans **Appendix I** received on 18.3.2020
 - (b) Further information (FI) received on 6.5.2020 in response **Appendix Ia** to departmental comments
[exempted from publication requirement]
 - (c) FI received on 11.5.2020 in response to departmental **Appendix Ib** 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 planning statement in **Appendix I**. They can be summarized as follows:

- (a) The application is for temporary use and would not affect the long-term planning intention of the “AGR” zone. The area of the Site and the layout of the development are the same as those under the last approved Application No. A/YL-KTN/553. The applicant has complied with all the approval conditions under the planning permission.
- (b) No public complaint on the Site was received in the past three years and the relevant departments had no adverse comment on the last application.
- (c) The development would not generate adverse traffic impact. The applicant will preserve the trees within the Site and maintain the drainage facilities and fire services installation on-site. The applicant will comply with all the approval conditions if the current application is approved by the Board.

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 notice 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**

- 4.1 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 attached at **Appendix II**.
- 4.2 The Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses’ (TPB PG-No. 13F) promulgated by the Board on 27.3.2020 are relevant to the application. The Site falls within the Category 2 areas under TPB PG-No. 13F. The relevant extract of the Guidelines is attached at **Appendix III**.

5. **Background**

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

6. **Previous Applications**

- 6.1 The Site was involved in six previous applications, of which 2 rejected and 4 approved with conditions. Details of the applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1b**.

Two Rejected Applications

- 6.2 Applications No. A/YL-KTN/161 (covering the middle portion of the Site) and A/YL-KTN/263 (covering a much larger site area) for proposed temporary storage of construction materials and proposed temporary open storage of building materials and vehicle parts both for a period of 3 years were rejected by the Board on review and the Committee in 2003 and 2007 respectively on the grounds that that the development was not in line with the planning intention of the “AGR” zone; did not comply with the Town Planning Board Guidelines for Open Storage and Port Back-up Uses in that there was no previous approval granted at the Site, the residential dwellings in close proximity would be susceptible to adverse environmental nuisances and there were adverse comments from concerned departments; there was no information to

demonstrate that other suitable sites within the “Industrial (Group D)” and “Open Storage” zones could not be identified for the use under application; and approval would set an undesirable precedent.

Four Approved Applications

- 6.3 Applications No. A/YL-KTN/338 and 355 for temporary open storage of second-hand vehicles for export and No. A/YL-KTN/442 and 533 for the same applied use as the current application were approved with conditions by the Committee for 1 year or 3 years between 2010 and 2017 on similar considerations that the developments were not incompatible with the surrounding land uses; the developments were in line with the Town Planning Board Guidelines for Open Storage and Port Back-up Uses in that previous approvals for open storage use had been granted; and the environmental and landscape concerns could be addressed by shorter approval period and/or appropriate approval conditions. Application No. A/YL-KTN/338 was revoked on 15.11.2010 due to non-compliance with approval conditions. For the last approved application (No. A/YL-KTN/553), all approval conditions had been complied with and the planning permission is valid until 23.5.2020.

7. Similar Applications

- 7.1 There are 19 processed similar applications for various temporary open storage uses in the vicinity of the Site within the same “AGR” zone in the Kam Tin North OZP considered by the Committee/ the Board since the promulgation of the then TPB PG-No. 13E on 17.10.2008. Details of the applications are summarized in **Appendix V** and their locations are shown on **Plan A-1**.

Fourteen Approved Applications

- 7.2 Ten applications (No. A/YL-KTN/339, 341, 364, 373, 399, 452, 517, 578, 648 and 654) for various temporary open storage uses were approved with conditions by the Committee between 2010 and 2019 on similar considerations that the developments were in line with TPB PG-No. 13E in that the relevant departments generally had no adverse comment and the environmental or landscape concerns could be addressed by appropriate approval conditions. However, four of them were revoked due to non-compliance with approval conditions.
- 7.3 Four applications (No. A/YL-KTN/343, 363, 441, 559) on a site for various temporary open storage use were approved with conditions by the Committee between 2010 and 2017 on similar considerations that the original site of the development was resumed for the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL) project and the applicant had spent efforts in identifying suitable site for continuous operation of his business for open storage and only the application site was identified; the developments were not incompatible with the surrounding land uses; and the concerns of the relevant government departments

could be addressed by appropriate approval conditions. One of them was revoked due to non-compliance with approval conditions.

Five Rejected Applications

- 7.4 Five applications (No. A/YL-KTN/375, 386, 392, 405 and 552) for various temporary open storage uses were rejected by the Committee or the Board on review between 2012 and 2017 mainly for the reasons that the developments were not in line with TPB PG No. 13E in that no previous planning approval had been granted; there was insufficient information to demonstrate the developments would not cause adverse environmental, drainage, traffic and/or landscape impacts on the surrounding areas; and the approval of the applications would set an undesirable precedent.
- 7.5 Apart from the above processed similar applications, Application No. A/YL-KTN/706 for renewal of planning approval for temporary open storage of construction materials with ancillary office and storage for a period of 3 years in the same “AGR” zone will be considered in the same meeting (**Plan A-1**).

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

8.1 The Site is :

- (a) paved, fenced and used for the applied use with valid planning permission; and
- (b) accessible via a local track branching off Kam Tai Road to the south.

8.2 The surrounding areas are rural in character and intermixed with open storage/storage yards, vehicle parks, scattered residential dwellings/structures, a plant nursery, agricultural land and vacant/unused land. Some of the open storage yards are suspected unauthorised development subject to planning enforcement actions by the Planning Authority:

- (a) to its east are vacant land and a vehicle park (with planning permission). A large piece of land zoned “OS” and “I(D)” is located to the further southeast (**Plan A-1**);
- (b) to the south are open storage/storage yards and a car park (two of them with planning permission), plant nursery, and a residential dwelling/structure (about 40m to the south);
- (c) to its west and north across a nullah are agricultural land, residential dwellings/ structures and unused/vacant 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 applications 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 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, the following private lots are currently covered by Short Term Waivers (STWs):

STW No.	Lot(s) No. in D.D. 110	Permitted Use
STW 3902	377 S.C RP	Temporary Open Storage of Building Materials with Ancillary Site Office and Staff Lounge
STW 3903	379 RP	
STW 4274	381 RP	Temporary Private Car Park for Medium Goods Vehicles and Storage of Construction Materials
STW 4275	382 RP	
STW 4276	412 RP	

- (c) Should the application be approved, the STW holder(s) will need to apply to his office for modification of the STW conditions where appropriate. The owner(s) of the lot(s) without STW will need to apply to his office to permit the structures to be erected or regularise 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 Commissioner for Transport (C for T) :

- (a) He has no comment on the application from traffic engineering perspective.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by his department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

10.1.3 Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD) :

- (a) Part of Kam Tai Road is maintained by his office.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and the part of Kam Tai Road maintained by his department.
- (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 at the Site received in the past 3 years. The applicant is advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by the DEP.

Agriculture and Nature Conservation

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

- (a) Considering that previous applications for the same use were approved by the Committee, he has no strong view against the application of renewal of planning approval.
- (b) The Site is in the vicinity of a drainage channel KT6. Should the application be approved, the applicant shall be advised to adopt necessary measures to avoid polluting or disturbing the adjacent watercourse during operation.

Landscape

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

- (a) She has no objection to the application from the landscape planning point of view.
- (b) Based on the aerial photo taken on 29.10.2018, the Site is situated in an area of rural landscape character comprising scattered tree groups, temporary structures, active and abandoned farmlands. Considering that planning applications of similar temporary open storage use were approved in the same “AGR” zone in proximity to the Site, the applied use is considered not entirely incompatible with the surrounding environment. Comparing the aerial photos taken in 2017 and 2018, 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.
- (c) Should the application be approved, she suggests imposing approval condition requiring the maintenance of existing landscape plantings within the Site.

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. Presumably, the applicant would maintain the same drainage facilities as those implemented under previous application No. A/YL-KTN/553.

- (b) Should the application be approved, approval conditions requiring (i) the maintenance of the drainage facilities implemented under Application No. A/YL-KTN/553 and (ii) the submission of records of the existing drainage facilities on site should be included.

Fire Safety

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

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

Building Matters

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

- (a) If the existing structures are erected on leased land without approval of BD (not being New Territories Exempted Houses), they are unauthorised under the Buildings Ordinance (BO) and should not be designated for any use under the application.
- (b) Before any new building works (including ancillary office and storage as temporary buildings) are to be carried out on the Site, prior approval and consent of the Building Authority (BA) should be obtained. Otherwise, they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (c) For UBW erected on leased land, enforcement action may be taken by the BA 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 works or UBW on the Site under the BO.
- (d) 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.
- (e) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.

District Officer's Comments

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 and he has no particular comment on the application.

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

- (a) Chief Engineer/Railway Development 2-2, Railway Development Office, Highways Department;
- (b) Chief Estate Surveyor/Railway Development, Lands Department;
- (c) Antiquities and Monuments Office, Development Bureau;
- (d) Director of Electrical and Mechanical Services;
- (e) Chief Engineer/Construction, Water Supplies Department;
- (f) Project Manager (West), Civil Engineering and Development Department; and
- (g) Commissioner of Police.

11. Public Comment Received During Statutory Publication Period

On 27.3.2020, the application was published for public inspection. During the three-week statutory public inspection period, one comment from an individual was received objecting to the application mainly on the grounds that the Committee should question the long term planning intention of the Site (**Appendix VI**).

12. Planning Considerations and Assessments

12.1 The application is for renewal of the planning permission for temporary open storage of building materials with ancillary site office and staff restroom in "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. Although the applied use is not in line with the planning intention of the "AGR" zone, DAFC has no strong view on the application. It is considered that temporary approval of the application will 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 and intermixed with open storage/storage yards, vehicle parks, scattered residential structures, plant nursery, agricultural land and vacant/unused land. Besides, "OS" and "I(D)" zones with open storage uses are located to the southwest of the Site.

- 12.3 The Site falls within Category 2 areas under the TPB PG-No. 13F. The following considerations in the Guidelines are relevant:

Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of 3 years, subject to no adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments, where appropriate, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas.

- 12.4 The application is in line with TPB PG-No. 34C and TPB PG-NO.13F in that all the approval conditions under the last approved Application No. A/YL-KTN/553 had been complied with. There is no adverse comment from the concerned departments. The applicant also submitted landscape, drainage and FSIs proposals in the current application. Compared with the last approved application No. A/YL-KTN/553, the current application submitted by the same applicant is the same in terms of use, site area, layout and total floor area. As there is no major change in planning circumstances since the last approval, favourable consideration could be given to the current application.
- 12.5 To minimize any possible environmental nuisance, approval conditions restricting the operation hours and vehicle type and prohibiting workshop-related activities are recommended in paragraph 13.2 (a) to (d) below. Besides, the applicant will be advised to follow the latest “Code of Practice on Handling the Environmental Aspects of Open Storage and Other Temporary Uses”. The technical requirements of C for T, CE/MN of DSD and D of FS can be addressed by approval conditions in paragraph 13.2 (f) to (i) below.
- 12.6 A public comment objecting to the application was received during the statutory publication period as detailed in paragraph 11 above. In this regard, the departmental comments and planning considerations and assessments as stated above are also relevant.

13. Planning Department’s Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11 above, the Planning Department considers that the temporary open storage of building materials with ancillary site office and staff restroom 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 24.5.2020 until 23.5.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 6:00p.m. and 9:00a.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 dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities shall be carried out on the Site at any time during the planning approval period;
- (e) the existing boundary fencing on the Site shall be maintained at all times during the planning approval period;
- (f) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (g) the existing landscape plantings on the Site shall be maintained satisfactorily at all times during the planning approval period;
- (h) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (i) 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 Town Planning Board by 24.8.2020;
- (j) the existing fire service installations implemented on the Site shall be maintained in efficient working order at all times during the planning approval period;
- (k) if any of the above planning conditions (a), (b), (c), (d), (e), (f), (g), (h) or (j) 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;
- (l) if the above planning condition (i) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and

- (m) 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 Town Planning Board.

[The above approval conditions are similar to those under the last Application No. A/YL-KTN/553, except deletion/ change of those on landscape and FSIs according to the comments of CTP/UD&L of PlanD and D of FS.]

Advisory Clauses

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

- 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 "AGR" zone, which 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. 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 conditions and advisory clauses, 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 planning statement and plans received on 18.3.2020
Appendix Ia	FI received on 6.5.2020
Appendix Ib	FI received on 11.5.2020
Appendix II	Relevant extract of TPB PG-No. 34C

Appendix III	Relevant extract of TPB-PG No. 13F
Appendix IV	Previous applications covering the Site
Appendix V	Similar applications within the same “AGR” zone in the vicinity of the Site on the Kam Tin North OZP
Appendix VI	Public comment received during the statutory publication period
Appendix VII	Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Layout Plan with fire service installations, landscape and drainage proposals
Plan A-1a	Location Plan with Similar Applications
Plan A-1b	Previous Application Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
MAY 2020**