

RNTPC Paper No. A/YL-PH/836
For Consideration by
the Rural and New Town
Planning Committee
on 15.5.2020

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/836

- Applicant** : Chief Force Limited
- Site** : Lots 135 RP (Part), 136 (Part), 138 S.B RP (Part) and 139 RP (Part)
in D.D. 108, Pat Heung, Yuen Long
- Site Area** : 2,490 m²
- 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 maximum building height of 2 storeys
(6m)]
- Application** : Proposed Temporary Public Vehicle Park (excluding container
vehicle) 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 public vehicle park (excluding container vehicle) for a period of 3 years. According to the Notes of the OZP, ‘Public Vehicle Park (excluding container vehicle)’ is a Column 2 use within the “R(D)” zone, which requires planning permission from the Town Planning Board (the Board). The Site was the subject of five previous applications for various open storage uses. The last application No. A/YL-PH/515, submitted by a different applicant, for temporary open storage of excavators and bulldozers for sale was rejected by the Board on review on 25.8.2006. The Site is currently vacant (**Plans A-2 to A-4**).

- 1.2 The Site will provide parking spaces for 8 medium goods vehicles¹, 8 light goods vehicles and 20 private cars. A temporary structure of 30m² floor area (building height not more than 3m (1-storey)) will be erected at the Site for office use. No vehicle exceeding 24 tonnes will be allowed to park at the Site. No dismantling, maintenance, repairing, cleaning, spraying or other workshop activities will be undertaken. The operation hours will be from 6 a.m. to 11 p.m. daily, including public holidays. The Site is accessible by a local track leading to Fan Kam Road. The layout and vehicular access plan and the fire service installations proposal plan submitted by the applicant is at **Drawings A-1 and A-2**.
- 1.3 In support of the application, the applicants have submitted the following documents:
- (a) Application form with supplementary planning (**Appendix I**) statement and plans received on 23.3.2020
 - (b) Further Information (FI) received on 23.4.2020 in (**Appendix Ia**) response to departmental comment
(exempted from publication requirement)
 - (c) FI received on 28.4.2020 and 29.4.2020 in response to (**Appendix Ib**) departmental comment
(exempted from publication requirement)

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the supplementary planning statement and FI at **Appendices I to Ib**. They can be summarized as follows:

- (a) The proposed development would provide parking spaces for the locals and help address the adverse traffic impacts arising from illegal parking in the area.
- (b) The proposed development is temporary in nature, and will not contravene the long-term planning intention of the “R(D)” zone. No adverse traffic impact is anticipated. If the application is approved, the applicant will comply with all of the approval conditions.

¹ Under the Road Traffic Ordinance (Cap. 374), “medium goods vehicle” means a goods vehicle having a permitted gross vehicle weight exceeding 5.5 tonnes but not exceeding 24 tonnes, and “heavy goods vehicle” means a goods vehicle having a permitted gross vehicle weight exceeding 24 tonnes but not exceeding 38 tonnes.

3. **Compliance with the “Owner’s Consent/Notification” Requirements**

The applicant is not the “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 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 by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is not subject to planning enforcement action.

5. **Previous Applications**

- 5.1 The Site is subject to 5 previous applications covering a larger area / part of the Site for various open storage uses. Details of the applications are summarized in **Appendix II** and the location of the sites are shown on **Plan A-1b**.

One approved application

- 5.2 Application No. A/YL-PH/297 for proposed temporary open storage of new private cars and vehicle parts was approved with conditions by the Committee in 1999 on the consideration that part of the site would be affected by road improvement works and the planned use was not likely to materialize in near future; adverse environmental and traffic impacts would unlikely be induced on the surrounding areas; relevant government departments had no adverse comments; and no local objection to the application had been received. However, the planning permission was revoked in 2000 due to non-compliance with approval conditions.

Four rejected applications

- 5.3 Applications No. A/YL-PH/240, 403, 491 and 515 for temporary open storage of construction materials, excavators, loaders and bulldozers were rejected by the Committee or the Board on review between 1998 and 2006 mainly for the reasons that the proposed development was not in line with the planning intention of the “R(D)” zone; not compatible with the surroundings; there was insufficient information to demonstrate there would not be adverse drainage and environmental impacts; approval of the application would set an undesirable precedent; and the proposed development did not comply with Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses”.

6. Similar Applications

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

Nine approved applications

- 6.2 Nine applications for temporary public car park without medium goods vehicles / container vehicles (No. A/YL-PH/150, 385, 413, 501, 604, 661, 702, 725 and 745) were approved with conditions by the Committee from 1997 to 2017 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. Planning permissions of five applications were revoked due to non-compliance with approval conditions.

Six rejected applications

- 6.3 The other six applications for temporary vehicle park involving private car / lorry / coach / heavy vehicles / tractor / container vehicles (with / without open storage) (No. A/YL-PH/4, 13, 439, 524, 529 and 819) were rejected by the Committee or the Board on review between 1994 and 2019. 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” (applications No. A/YL-PH/4, 529 and 819 only); it was not compatible with the surrounding areas; there was insufficient information to demonstrate 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-2 to A-4b)

- 7.1 The Site is:
- (a) vacant; and
 - (b) accessible via a local track branching off Fan Kam Road.
- 7.2 The surrounding areas are rural in character intermixed with residential dwellings / structures, open storage / storage yards and vacant / unused land. Most of the open storage yards and parking of vehicles are suspected unauthorized development subject to planning enforcement action by the Planning Authority:

- (a) to its immediate east is a watercourse. To its south, north and further east are residential dwellings / structures (the nearest less than 5m to the north and east), open storage / storage yards and parking of vehicles;
- (b) to its south-west are vegetated land partly falling with “Conservation Area” (“CA”) and vacant / unused land; and
- (c) to its west and further north across Fan Kam Road are densely vegetated slopes zoned “CA”.

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, 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) If the planning application is approved, the lot owner(s) will need to apply to his office to permit the structure(s) to be erected or regularize any irregularities on Site, if any. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. Applications for any of the above will be considered by LandsD acting in the capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of rent or fee, as may be imposed by 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 (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.

9.1.3 Comments of the Chief Highway Engineer/NT West, Highway Department (CE/NTW, HyD):

- (a) HyD is not / shall not be responsible for the maintenance of any access connecting the Site and Fan Kam Road.
- (b) If the proposed run-in/out is agreed by the TD, the applicant should provide the run in/out at Fan Kam Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (c) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads or exclusive road drains.

Environment

9.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) There was no environmental complaint concerning the Site received in the past 3 years.
- (b) In accordance with the latest “Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites”, she does not support the application as there are sensitive receivers, i.e. residential structures / dwellings located to the

north and east (nearest less than 5m) (**Plan A-2**) and in the vicinity of the Site, and the proposed use involves the use of heavy vehicles², thus environmental nuisance is expected.

- (c) Should the application be approved, 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

9.1.5 Comments of the Chief Town Planner / Urban Design & Landscape (CTP/UD&L, PlanD):

- (a) She has no objection to the application from the landscape planning perspective.
- (b) Based on the aerial photo taken on 3.1.2018, the Site is situated in an area of rural landscape character comprising scattered tree groups, open storage yards and temporary structures. Considering the nature of the application, the proposed use is considered not entirely incompatible with the surrounding environment. It is noted that the Site is paved. Some existing trees are observed within the Site. Referring to the submitted layout plan, the proposed development is not directly in conflict with the existing trees. Significant adverse impact on landscape resources is not anticipated.

Drainage

9.1.6 Comments of the Chief Engineer/Mainland North, Drainage Services Department (CE/MN, 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 stormwater drainage proposal, including how the development would not adversely affect the bank of the adjacent watercourse and its discharge capacity, and to implement and maintain the drainage proposal for the

² Under the “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites”, "heavy vehicles" include goods vehicles with permitted gross vehicle weight exceeding 5.5 tonnes (i.e. both medium and heavy goods vehicles defined under the Road Traffic Ordinance as set out in footnote 1).

development to the satisfaction of the Director of Drainage Services or of the Board should be included.

Fire Safety

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

- (a) He has no in principle objection to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) The FSI proposal included in the submission is considered acceptable to his department. The installation / maintenance / modification / repair work of FSI shall be undertaken by a Registered Fire Service Installation Contractor (RFSIC). The RFSIC shall after completion of the installation / maintenance / modification / repair work issue to the person on whose instruction the work was undertaken a certificate (FS 251) and forward a copy of the certificate to him.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling) are to be carried out on the Site, prior approval and consent of the Building Authority should be obtained, otherwise they are Unauthorized Building Works (UBW) under the Buildings Ordinance (BO). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (b) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with BD's enforcement policy against UBW as and when necessary. The granting of any planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.

- (c) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations (B(P)R) respectively.
- (d) If the Site does not abut on a specified street of not less than 4.5m wide, its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at the building plan submission stage.
- (e) Detailed comments under the BO will be provided at the general building plan submission stage.

Water Supplies

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

- (a) He has no objection to the application.
- (b) Access to the Site will make use of an existing crossing which bridges over the existing WSD's Dongjiang water main (DJ main). To guard against accidental fall of objects, including vehicles from the crossing, high containment parapets along the edges of the crossing should be erected by the applicant.
- (c) The applicant should submit an assessment conducted and certified by a qualified professional showing the additional traffic loads induced by the proposed development and the additional parapets mentioned above will not adversely affect the structural integrity of the existing crossing above the DJ main.
- (d) The applicant should submit an inspection record certified by a qualified professional, on an annual basis or upon request from the Director of Water Supplies, to confirm the existing crossing above the DJ main is properly maintained and is in safe condition.
- (e) No structure and material is allowed to be placed or erected within the Waterworks Reserve.

District Officer's Comments

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

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

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

- (a) Project Manager (West), Civil Engineering and Development Department;
- (b) Director of Electrical and Mechanical Services; and
- (c) Commissioner of Police.

10. Public Comments Received During Statutory Publication Period

On 31.3.2020, the application was published for public inspection. During the three-week statutory public inspection period, two public comments including one from the village representatives of Sheung Che Village and an individual (**Appendices IV-1 and IV-2**) were received. They objected to the application mainly on the grounds that the proposed development would result in pollution and adversely affect the environment and health of villagers; the fungshui of the village would be adversely affected; would result in adverse traffic impacts affecting the safety of villagers; the Site had been used for brownfield and open storage uses in an area close to Lam Tsuen Country Park; and there are no residences nearby thus the Site may be for container storage use.

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary public vehicle park for a period of 3 years at a site in "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 (involving parking spaces for 8 medium goods vehicles, 8 light goods vehicles and 20 private cars) is not in line with the planning intention of the "R(D)" zone. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis.

11.2 The proposed development involves the parking of medium goods vehicles and is considered not compatible with the surrounding area where densely vegetated land, a watercourse and some residential dwellings / structures are found.

- 11.3 DEP does not support the application as there are residential structures / dwellings to its north and east (nearest less than 5m) and in the vicinity, and the proposed use involves the use of vehicles exceeding 5.5 tonnes whereby environmental nuisance is expected. Other relevant departments consulted including CE/MN of DSD, D of FS and C for T have no adverse comment on the application.
- 11.4 The Site is subject to five previous planning applications for various open storage uses with one approved and four rejected. The current application is for a different use. There are 15 similar applications within the same “R(D)” zone. Although nine of them were approved by the Committee, they did not involve heavy vehicles. The other six rejected similar applications mainly involved heavy vehicles / container vehicles. The current application involves parking of heavy vehicles which is similar to the rejected applications.
- 11.5 Two public comments were received during the statutory inspection period, objecting to the application as stated in paragraph 10 above. In this regard, relevant Government departments’ comments as well as planning assessments and considerations 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 as mentioned in paragraph 10 above, the Planning Department does not support the application for the following reason:

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, and 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.

- 12.2 Alternatively, 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 15.5.2023. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 11:00 p.m. and 6:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no heavy goods vehicles exceeding 24 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) 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;
- (d) a notice should be posted at a prominent location of the Site to indicate that no heavy goods vehicles exceeding 24 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;
- (e) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (f) the submission of a run-in/out proposal at Fan Kam Road within **6** months from the date of planning approval to the satisfaction of the Director of Highways and the Commissioner for Transport or of the Town Planning Board by 15.11.2020;
- (g) in relation to (f) above, the implementation of the run-in/out proposal at Fan Kam Road within **9** months from the date of planning approval to the satisfaction of the Director of Highways and the Commissioner for Transport or of the Town Planning Board by 15.2.2021;
- (h) the submission of stormwater 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 15.11.2020;
- (i) in relation to (h) above, the implementation of stormwater 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 15.2.2021;
- (j) in relation to (i) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (k) the implementation of the accepted 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 15.11.2020;
- (l) if any of the above planning condition (a), (b), (c), (d), (e) 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; and

- (m) if any of the above planning condition (f), (g), (h), (i) or (k) 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.

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 reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.
- 13.3 Alternatively, 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. Attachments

Appendix I	Application form with supplementary planning statement and plans received on 23.3.2020
Appendix Ia	FI received on 23.4.2020
Appendix Ib	FI received on 28.4.2020 and 29.4.2020
Appendix II	Previous applications covering the Site
Appendix III	Similar applications within the same “R(D)” zone 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	Layout and Vehicular Access Plan
Drawing A-2	Fire Service Installations Proposal Plan
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**