

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

APPLICATION NO. A/YL-KTS/844

- Applicant** : Chief Force Limited
- Site** : Lot 1280 RP (Part) in D.D. 106 and Adjoining Government Land, Kong Ha Wai, Kam Sheung Road, Pat Heung, Yuen Long
- Site Area** : About 3,670 m² (including Government land of about 13.8 m² (about 0.4 %))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
- Zoning** : “Residential (Group D)” (“R(D)”) [restricted to maximum plot ratio of 0.2 and building height of 2 storeys (6m)]
- Application** : Renewal of Planning Approval for Temporary Open Storage of Construction Materials with Ancillary Site Office and Staff Restrooms 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 construction materials with ancillary site office and staff restrooms for a period of 3 years. The Site is zoned “R(D)” on the Kam Tin South OZP and the applied use is neither a Column 1 nor Column 2 use in the “R(D)” zone. According to the Notes of the OZP, temporary use or development not exceeding a period of three 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 previous planning permission lapsed on 5.4.2020) (**Plans A-2 to A-4b**).

- 1.2 The Site is the subject of ten previous applications for various temporary open storage uses. The last application (No. A/YL-KTS/730) for the same applied use as the current application was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 3.3.2017 (for approval period from 5.4.2017 to 4.4.2020). All approval conditions have been complied with.
- 1.3 According to the applicant, a total of five single-storey structures (about 2.5m high) with a total floor area of about 455 m² are provided within the Site for office, staff restroom, storage and toilet uses. The operation does not involve the use of goods vehicle exceeding 5.5 tonnes. The operation hours are from 9:00 a.m. to 6:00 p.m. from Mondays to Saturdays and there will be no operation on Sundays and public holidays. The Site is accessible from Kam Sheung Road/ Kam Shui Road via Kam Shui South Road. The location plan, layout plan, landscape, drainage, fire service installations and vehicular access plans submitted by the applicant are in **Drawings A-1 to A-6**.
- 1.4 When compared with the last approved application (No. A/YL-KTS/730), the current application submitted by the same applicant involves the same site area, boundary, total floor area, number of structures, building height and site layout.
- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application form with supplementary planning statement and plans received on 19.2.2020 **(Appendix I)**
 - (b) Further Information (FI) received on 23.3.2020 in response to departmental comments **(Appendix Ia)**
(exempted from publication requirement)
 - (c) FI received on 2.4.2020 in response to departmental comments **(Appendix Ib)**
(exempted from publication requirement)
- 1.6 In light of the special work arrangement for government departments due to the novel coronavirus infection, the meeting originally scheduled for 3.4.2020 (the previous planning permission was valid up to 4.4.2020) for consideration of the application has been rescheduled, and the Board has agreed to defer consideration of the application. The application is now scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

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

- (a) The current application is a renewal of the last approved Application No. A/YL-KTS/730 without any change in the applied use and layout. The application is temporary in nature without any permanent structures and will not jeopardize the long-term planning intention. There will be no dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities undertaken within the Site.
- (b) No complaint was received from the public and relevant Government departments had no objection to the last application, and all the approval conditions of the last application had also been complied with.
- (c) Landscaping, drainage and fire services installation facilities will be provided and maintained. No adverse traffic impact is anticipated. If the current application is approved, the applicant will comply with the approval conditions by the specified dates.

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

The applicant is not a “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 and sending notice to the Pat Heung Rural Committee by registered mail. 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**

- 4.1 The Town Planning Board Guidelines on ‘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 on ‘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 is within the Category 3 areas under the TPB PG-No. 13F¹. The relevant extract of the Guidelines is attached at **Appendix III**.

5. **Background**

The Site is not the subject of any outstanding enforcement cases.

¹ The Site also fell within Category 3 areas in the previous TPB PG-No. 13E which was in force when the last previous application was approved.

6. Previous Applications

- 6.1 The Site is the subject of ten previous applications for various temporary open storage uses. Details of these applications are summarized in **Appendix IV** and their locations are shown on **Plan A-1b**.
- 6.2 Applications No. A/DPA/YL-KTS/92, A/YL-KTS/97, 144, 222 and 266 for temporary open storage of iron scaffoldings for 1 or 3 years, and No. A/YL-KTS/290, 408, 528, 637 and 730 for temporary open storage of construction materials / motor vehicles and used electrical appliances and children toys for 3 years were approved with conditions by the Committee from 1994 to 2017 for similar reasons that the developments were not incompatible with the surrounding land uses; there was no adverse comment from the relevant departments in general and the technical concerns could be addressed by appropriate approval conditions; and/or the applications were in line with the then Town Planning Board Guidelines for “Application for Open Storage and Port Back-up Uses” in that previous approvals were given and approval conditions under the previous approval had been complied with. However, Applications No. A/YL-KTS/222 and 226 were revoked due to non-compliance with approval conditions. For the last approved application No. A/YL-KTS/730 which was submitted by the current applicant, the planning permission was valid until 4.4.2020 and all approval conditions have been complied with.

7. Similar Applications

- 7.1 There are a total of 16 similar applications for various temporary open storage uses within the same “R(D)” zone on the OZP since the promulgation of the then TPB PG-No.13E promulgated on 17.10.2008. Fourteen applications were approved with conditions by the Committee while two were rejected. Details of these applications are summarized in **Appendix V** and their locations are shown on **Plan A-1a**.

Fourteen Approved Applications

- 7.2 Fourteen similar applications for various temporary open storage uses were approved with conditions by the Committee between 2009 and 2018 on similar considerations that approval of the applications on a temporary basis would not frustrate the long-term planning intention; the developments were not incompatible with the surrounding areas; the developments were generally in line with TPB PG-No. 13E in that previous approval for open storage use had been granted at the sites; and/or relevant departments had no adverse comment and Director of Environmental Protection’s (DEP) concern could be addressed by appropriate approval conditions. However, two of them were revoked due to non-compliance with approval conditions.

Two Rejected Applications

- 7.3 Two applications (No. A/YL-KTS/536 and 599) for various temporary open storage uses were rejected by the Committee in 2011 and 2013 mainly on similar grounds that the applications did not comply with the TPB PG-No. 13E in that there was no previous approval for open storage use granted at the sites and there were adverse departmental comment on the applications.

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

8.1 The Site is:

- (a) paved, fenced and currently used for the applied use (previous planning permission under Application No. A/YL-KTS/730 valid until 4.4.2020); and
- (b) accessible by Kam Sheung Road/ Kam Shui Road via Kam Shui South Road .

8.2 The surrounding areas are rural in character intermixed with open storage/storage yards, parking of vehicles, residential dwellings / structures, a plant nursery, fallow agricultural land and vacant/unused land. Some of the open storage / storage yards and parking of vehicles are suspected unauthorized development subject to enforcement action by the Planning Authority (**Plan A-2**):

- (a) to its north, south and west are open storage / storage yards (including one with valid planning permission under Application No. A/YL-KTS/804), parking of vehicles, residential dwellings / structures (the nearest being about 20m on the north and south), a plant nursery, fallow agricultural land and vacant land; and
- (b) to its east are the mitigation planting areas for the Kam Tin Main Drainage Channel project and a nullah, and to the further east across the nullah is the village settlement of Kam Tsin Wai.

9. 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.

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 an Old Schedule Agricultural Lot 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 private lot is currently covered by Short Term Waiver (STW) No. 4126, whereas the GL therein is covered by the Short Term Tenancy (STT) No. 2848, both for 'temporary open storage of construction materials with ancillary site office and staff restrooms'.
- (c) Should the application be approved, the STW / STT holder(s) will need to apply to his office for modification of the STW/STT conditions where appropriate. 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

- 10.1.2 Comments of the Commissioner for Transport (C for T):

- (a) He has no comment on the application from the traffic engineering point of view.
- (b) Should the application be approved, approval condition on no vehicle is allowed to queue back to or reverse onto / from public road at any time during the planning approval period should be included.
- (c) The Site is connected to the public road network via a section of a local access road which is not managed by Transport

Department. The land status of the local access road should be checked with the LandsD. Moreover, the management and maintenance responsibilities of the local access road should be clarified with the relevant lands and maintenance authorities accordingly.

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

- (a) He has no comment on the renewal application from highways maintenance point of view.
- (b) HyD is not and shall not be responsible for the maintenance of any access connecting the Site and Kam Sheung Road and Kam Shui Road.

Environment

10.1.4 Comments of the DEP:

- (a) There was no environmental complaint concerning the Site received 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.

Drainage

10.1.5 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 applicant's submission, apparently the applicant would maintain the same drainage facilities as those maintained under previous planning application No. A/YL-KTS/730.
- (c) Should the application be approved, approval conditions requiring (i) the maintenance of the drainage facilities implemented under application No. A/YL-KTS/730 and (ii) submission of the records of the existing drainage facilities on site to his or of the Board's satisfaction should be included in the planning approval.

Nature Conservation

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

Noting that the Site falls within “R(D)” zone and has been used for storage purpose for a number of years, he has no comment on the application from nature conservation point of view. Nevertheless, there are mitigation planting areas for the Kam Tin Main Drainage Channel project along the eastern boundary of the Site, which are currently maintained by his department. Should the application be approved, the applicant should be reminded to avoid disturbing the mitigation planting areas in order to preserve and protect the vegetation therein.

Building Matters

10.1.7 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 his department (not being a New Territories Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application.
- (b) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) 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 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.
- (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.

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 Fire Service Installations (FSIs) implemented on site being maintained in efficient working order at all times.

District Officer's Comments

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

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

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

- (a) Project Manager (West), Civil Engineering and Development Department;
- (b) Chief Engineer/Construction, Water Supplies Department;
- (c) Commissioner of Police; and
- (d) Director of Electrical and Mechanical Services.

11. Public Comment Received During Statutory Publication Period

On 3.3.2020, the application was published for public inspection. During the three-week statutory public inspection period, one public comment was received from an individual questioning whether the Site and the surrounding plots are being considered as part of the proposed redevelopment of brownfields (**Appendix VI**).

12. Planning Considerations and Assessment

12.1 The application is for renewal of the planning permission for temporary open storage of construction materials with ancillary site office and staff restrooms 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 applied use is not in line with the planning intention of the "R(D)" zone. Nevertheless, there is no known

permanent development at this part of the “R(D)” zone. It is considered that approval of the application on a temporary basis would not frustrate the long-term planning intention of the “R(D)” zone.

12.2 The development is considered not incompatible with the surrounding land uses, which are rural in character intermixed with open storage/storage yards, residential dwellings / structures, a plant nursery, fallow agricultural land and vacant/unused land.

12.3 According to TPB PG-No. 13F, the Site falls within a Category 3 area. The following Guidelines are relevant:

Category 3 areas: within these areas, “existing” and approved open storage and port back-up uses are to be contained and further proliferation of such uses is not acceptable. Applications would normally not be favourably considered unless the applications are on sites with previous planning approvals. Sympathetic consideration may be given if the applicants have demonstrated genuine efforts in compliance with approval conditions of the previous planning applications and included in the fresh applications relevant technical assessments/proposals, if required, to demonstrate that the proposed uses would not generate adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas. 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, planning permission could be granted a temporary basis up to a maximum period of 3 years.

12.4 The application is generally in line with the TPB PG-No. 13F and TPB PG-No. 34C in that previous approvals for open storage at the Site were granted since 1994 and all the approval conditions of the last approved application (No. A/YL-KTS/730) have been complied with. There is also no adverse comment from the relevant departments. Compared with the last approved application, the current application submitted by the same applicant is the same in terms of use, site area, boundary, total floor area, number of structures, building height and site layout. The applicant also submitted landscape, drainage and FSIs proposals in the current application. As there is no major change in planning circumstances since the last approval, sympathetic consideration could be given to the current application.

12.5 Concerned departments have no objection to the application. To minimize the possible environmental nuisance, approval conditions restricting the operations hours, vehicle types and workshop-related activities are recommended in paragraphs 13.2(a) to 13.2(e) below. The applicant will also be advised to adopt the latest ‘Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites’. Technical requirements of C for T and CE/MN, DSD and D of FS could be addressed by imposing approval conditions (g) to (j) in paragraph 13.2 below.

- 12.6 One public comment was received during the statutory inspection period, objecting to the application as stated in paragraph 11 above. In this regard, relevant Government departments' comments as well as planning assessments and considerations 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 comment in paragraph 11, the Planning Department considers that the applied use 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 26.5.2020 to 26.5.2023. 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 dismantling, maintenance, repairing, cleansing, paint spraying or other workshop activities are allowed on the Site at any time during the planning approval period;
- (d) 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;
- (e) the existing boundary fence on the Site shall be maintained at all times during the planning approval period;
- (f) no disturbance to the mitigation planting areas along the eastern boundary of the Site at any time during the planning approval period;
- (g) no vehicle is allowed to queue back to or reverse onto/from public road at any time 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 existing fire service installations implemented on the Site shall be maintained in efficient working order 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 renewal planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 26.8.2020;
- (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 approval conditions are similar to those under the last Application No. A/YL-KTS/730, except the deletion/change of approval conditions related to tree preservation and fire safety aspects in responses to the CTP/UD&L of PlanD and D of FS's comments.]

Advisory Clauses

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

13.3 There is no strong reason to recommend rejection of the application.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission for the 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

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| Appendix I | Application form with supplementary planning statement and plans received on 19.2.2020 |
| Appendix Ia | FI received on 23.3.2020 |
| Appendix Ib | FI received on 2.4.2020 |
| Appendix II | Relevant extract of TPB PG-No. 34C |
| Appendix III | Relevant extract of TPB PG-No. 13F |
| Appendix IV | Previous s.16 applications covering the Site |
| Appendix V | Similar applications within the same “R(D)” zone on the approved Kam Tin South OZP |
| Appendix VI | Public comment received during the statutory publication period |
| Appendix VII | Advisory Clauses |
| Drawing A-1 | Location Plan |
| Drawing A-2 | Layout Plan |
| Drawing A-3 | Landscape Plan |
| Drawing A-4 | Drainage Plan |
| Drawing A-5 | Fire Services Installation Plan |
| Drawing A-6 | Vehicular Access Plan |
| Plan A-1a | Location Plan with Similar Applications |
| Plan A-1b | Previous Applications Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |

Plans A-4a and 4b

Site Photos

**PLANNING DEPARTMENT
MAY 2020**