

RNTPC Paper No. A/YL-PH/775  
For Consideration by  
the Rural and New Town  
Planning Committee on 20.4.2018

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-PH/775**

<b><u>Applicant</u></b>	: Chief Force Limited
<b><u>Site</u></b>	: Lots 1938 (Part), 1939 (Part), 1940 (Part) and 1941 (Part) in D.D. 111, Pat Heung, Yuen Long
<b><u>Site Area</u></b>	: About 955m <sup>2</sup>
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
<b><u>Zoning</u></b>	: “Village Type Development” (“V”)
<b><u>Application</u></b>	: Proposed Temporary Open Storage of Construction Materials for Small House Development for a Period of 3 Years

**1. The Proposal**

- 1.1 The applicant seeks planning permission to use the application site (the Site) for temporary open storage of construction materials for small house development for a period of three years. The Site is not subject to any previous application. The Site is currently fenced and vacant with an empty structure (**Plans A-2 and A-4**).
- 1.2 According to the applicant, the proposed development involves a one storey structure with building height of about 3m and total floor area of about 42m<sup>2</sup> for office and resting room. One loading/unloading space for light goods vehicle will be provided at the Site. The operation hours are from 9:00 a.m. to 6:00 p.m. Mondays to Saturdays. There will be no operation on Sundays and public holidays. The Site is accessible via a local track branching off from Kam Tin Road. The site layout plan with fire service installation proposal as submitted by the applicant is shown in **Drawing A-1**.
- 1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with planning statement and plans received on 28.2.2018 **(Appendix I)**
- (b) Supplementary Information (SI) received on 3.7.2018 **(Appendix Ia)**
- (c) Further Information (FI) submitted on 9.4.2018 and 10.4.2018 in response to departmental comments **(Appendix Ib)**  
*(accepted and exempted from publication and recounting requirements)*

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 9 of the Application Form and the planning statement in **Appendix I**. They can be summarized as follows:

- (a) The proposed temporary open storage of construction materials is to facilitate the nearby small house developments. The Site is mainly for storage of tiles, sands, cement and construction tools. No flammable materials will be stored on Site. No dismantling, repairing, cleansing, paint spraying or other workshop activities will be conducted at the Site.
- (b) No container tractors/trailers will be entered the Site. The proposed development will not generate adverse traffic impact on the surrounding areas.

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

The applicant is not the “current land owner”. However, the applicant 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. 31) by posting site notices and sending registered post to Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

## **4. Town Planning Board Guidelines**

The Site falls within Category 4 areas under the Town Planning Board Guidelines No. 13E for “Application for Open Storage and Port Back-up Uses” (TPB PG-No. 13E) promulgated by the Town Planning Board (the Board) on 17.10.2008. The relevant extract of the Guidelines is attached at **Appendix II**.

## 5. **Background**

The Site is the subject of a previous planning enforcement action (No. E/YL-PH/763) alleging for storage use. As the unauthorized development (UD) had discontinued, Compliance Notice was issued to the responsible persons on 1.12.2017. Should there be sufficient evidence to prove that the use on site is an UD under the Town Planning Ordinance, appropriate enforcement action will be taken.

## 6. **Previous Application**

There is no previous application at the Site.

## 7. **Similar Applications**

7.1 There are four similar applications (No. A/YL-PH/582, 599, 688 and 698) for temporary open storage of private cars and light/medium goods vehicles prior to sale and open storage of construction materials and containers in the same “V” zone (No. A/YL-PH/698 straddling “Agricultural” (“AGR”) zone) on the Pat Heung OZP since the promulgation of the TPB PG-No. 13E on 17.10.2008. All the applications were rejected by the Committee or the Town Planning Board (the Board) on review. Details of the applications are summarized in **Appendix III** and the locations of the sites are shown on **Plan A-1**.

7.2 Applications No. A/YL-PH/582, 599, 688 and 698 for temporary open storage of private cars and light/medium goods vehicles prior to sale and open storage of construction materials and containers for a period of one to three years were rejected by the Committee / the Board on review on 5.6.2009, 30.4.2010, 13.6.2014 and 9.1.2015 respectively on the considerations that temporary open storage use was not in line with the planning intention; the applications did not comply with the Town Planning Board PG-No. 13E in that there was no exceptional circumstance that warrant sympathetic consideration/ allow continuation of the applied use on-site/ there were adverse departmental comments ; the development was considered not compatible with the surrounding areas; the applicant failed to demonstrate that the development would not generate adverse environmental, landscape and/or drainage impacts on the surrounding areas; and the approval of the application, even on a temporary basis, would set an undesirable precedent.

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

8.1 The Site is:

- (a) fenced off and vacant with an empty structure; and
- (b) accessible via a local track branching off from Kam Tin Road.

- 8.2 The surrounding areas are rural in character, mixed with residential structures/dwellings, small houses under construction, open storage/storage yards, parking of vehicles and vacant/unused land. Some of the open storage / storage yards and parking of vehicles are suspected UD subject to enforcement action by the Planning Authority (**Plan A-2**):
- (a) to its north are parking of vehicles (one with planning permission under application No. A/YL-PH/746), residential dwellings/structures and vacant/unused land;
  - (b) to its immediate east is small houses under construction. Further east are mainly residential dwellings/structure and open storage yards;
  - (c) to its south are residential dwellings/structures (the nearest about 20m away), open storage yards and vacant/unused land. Further south are open storage yards (are with planning permission under application No. A/YL-PH/719) and unused land in the “AGR” zone; and
  - (d) to its west are residential dwellings/structures and vacant/unused land.

## **9. Planning Intention**

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

## **10. Comments from Relevant Government Departments**

- 10.1 The following Government departments have been consulted and their views on the application are summarized as follows:

### **Land Administration**

- 10.1.1 Comments of the District Lands Officer/Yuen Long, Lands Department (DLO/YL, LandsD):
- (a) The Site comprises 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) The Site is accessible to Kam Tin Road via Government Land (GL) and private land. His office provides no maintenance work for the GL involved and does not guarantee any right-of-way to the Site.
- (c) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structure shall not exceed the relevant airfield height limit within SKAHRA.
- (d) Should the application be approved, the lot owner(s) will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by LandsD acting in the capacity as landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application(s) is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.
- (e) There is no small house application approved and under processing within the Site.

### **Traffic**

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

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

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

- (a) HyD is not/shall not be responsible for the maintenance of any existing vehicular access connecting the Site and Kam Tin Road.
- (b) Adequate drainage measures should be provided to prevent surface water running from the Site to the nearby public roads and drains.

### **Environment**

#### 10.1.4 Comments of the Director of Environmental Protection (DEP):

- (a) No substantiated environmental complaint was received in the past three years.
- (b) In accordance with the latest Code of Practice on Handling the Environmental Aspect of Temporary Uses and Open Storage Sites (the COP), he does not support the application as there are storage of dusty construction materials (e.g. sands) in the proposed use and there are sensitive receivers nearby (the nearest is about 20m to its south) (**Plan A-2**) and in the vicinity of the Site, and 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.

### **Nature Conservation**

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

As the Site is located within “V” zone and is occupied by some temporary structures, he has no comment on the application from nature conservation perspective.

### **Drainage**

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

- (a) He has no in-principle objection to the application from the public drainage point of view.

- (b) Should the application be approved, approval conditions requiring the submission of drainage proposal and implementation and maintenance of the drainage proposal for the development should be included in the planning permission.

### **Fire Safety**

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

- (a) He has no in-principle objection to the application subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy. The location of where the proposed FSIs to be installed should be clearly marked on the layout plans. The good practice guidelines for open storage site in **Appendix IV** should be adhered to.
- (c) Having considered the nature of the open storage use, the condition on the provision of fire extinguisher(s) within 6 weeks from the date of the planning approval should be included in the planning permission. To address this condition, the applicant should submit a valid fire certificate (FS251) to his department for approval.
- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

### **Electricity**

#### 10.1.8 Comments of the Director of Electrical and Mechanical Services (DEMS):

- (a) He has no particular comment on the application from electricity supply safety aspect.
- (b) In the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should

approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and / or overhead line within and / or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

### **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, 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.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of his department, they are unauthorized under the BO and should not be designated for any approved use under the application.
- (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.

### **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 comments from locals upon close of consultation and has no comment on the application.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Project Manager(West), Civil Engineering and Development Department (PM(W), CEDD); and
- (c) Commissioner of Police (C of P).

**11. Public Comment Received During Statutory Publication Period**

11.1 On 13.3.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 3.4.2018, one comment from a general public was received (**Appendix V**).

11.2 The commenter objected the application on the reasons that the application appears to legitimized an ongoing brownfield operation; open storage is incompatible with the “V” zone; construction materials can leach into the ground and cause environmental degradation and endanger the health of future residents; storage should be accommodated in purpose built parks; and approval of the application would encourage further substandard and inappropriate land uses.

**12. Planning Considerations and Assessments**

12.1 The Site falls within Category 4 areas under the TPB PG-No. 13E. The following considerations in the Guidelines are relevant.

Category 4 areas: these are areas with ponds or wetland or with extensive vegetation or close to environmentally or ecologically sensitive areas, areas which are mostly used for residential purpose or proposed for such purposes, areas near existing major village settlements or areas subject to extremely high flooding risk. Applications for open storage and port back-up uses in Category 4 areas would normally be rejected except under exceptional circumstances. For applications on sites with previous planning approvals, and subject to no adverse departmental comments and local objections, 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 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. The intention is however to encourage the phasing out of such non-conforming uses as early as possible. Since the planning intention of Category 4 areas is to phase out the open storage

and port back-up uses, a maximum period of 2 years may be allowed upon renewal of planning permission for an applicant to identify suitable sites for relocation. No further renewal of approval will be given unless under very exceptional circumstances and each application for renewal of approval will be assessed on its individual merits.

- 12.2 The proposed temporary open storage of construction materials for small house development for a period of 3 years is not in line with the planning intention of the “V” zone which is to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. According to DLO/YL of LandsD, there is no Small House application approved or under processing at the Site. Nevertheless, no strong planning justification has been given in the submission to justify a departure from the planning intention, even on a temporary basis. No information is also provided by the applicant to demonstrate why suitable site within the “OS” zone to the southeast of the Site (**Plan A-1**) cannot be made available for the development.
- 12.3 The development is not compatible with the surrounding land uses which are predominated by residential dwellings/structures (**Plan A-2**). There is no information in the submission to demonstrate that the proposed use is compatible with the neighbourhood and would not create adverse impacts on the surrounding environment. Although there are open storage/storage yards and parking of vehicles in the vicinity, most of them are suspected unauthorized developments subject to enforcement action by the Planning Authority.
- 12.4 The development is not in line with the TPB PG-No. 13E in that applications for open storage and port back-up use in Category 4 areas would normally be rejected except under exceptional circumstances. In this regard, there is no exceptional circumstances in the current application that warrant sympathetic consideration. Besides, no previous approval for open storage use had been granted at the Site; and there is adverse departmental comment on the application. DEP does not support the application as there are dusty construction material (e.g. sands) in proposed use and there are residential dwellings/structures in the vicinity (i.e. the nearest about 20m at its south) (**Plan A-2**), and environmental nuisance is expected. In this connection, the applicant fails to demonstrate that the development would not generate adverse environmental impacts on the surrounding areas.
- 12.5 All similar applications (No. A/YL-PH/582, 599, 688 and 698) for temporary open storage of vehicles prior to sale and open storage of construction materials and containers in the same “V” zone were rejected by the Committee or the Board on review (paragraph 7 above). Approval of the current application, even on a temporary basis, would set an undesirable precedent for similar applications within the “V” zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

- 12.6 A public comment objecting the application was received during the statutory publication period as mentioned in paragraph 11.2 above. In this regard, the planning considerations and assessments above are relevant.

### **13. Planning Department's Views**

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11, the Planning Department does not support the application for the following reasons:

- (a) the development is not in line with the planning intention of the "V" zone which is intended to reflect existing recognized and other villages, and to provide land considered suitable for village expansion and reprovisioning of village houses affected by Government projects. Land within the "V" zone is primarily intended for development of Small Houses by indigenous villagers. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the application does not comply with the TPB PG-No. 13E in that the development is not compatible with the surrounding land uses which are predominated by residential structures/dwellings and vacant/unused land. There is also no previous approval granted at the Site and there is adverse departmental comment against the development;
- (c) the applicant fails to demonstrate that the development would not generate environmental nuisance on the surrounding areas; and
- (d) the approval of the application, even on a temporary basis, would set an undesirable precedent for other similar applications to proliferate into this part of the V" zone. The cumulative effect of approving such applications would result in a general degradation of the rural environment of the area.

- 13.2 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 2 years, instead of 3 years period sought, until 20.4.2020 to monitor the situation on the Site. 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 or 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, as proposed by the applicant, shall be carried out on the Site at any time during the planning approval period;
- (d) the maintenance of the existing boundary fencing on the Site at all times during the planning approval period;
- (e) 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;
- (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 submission of 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 20.10.2018;
- (h) in relation to (g) above, the implementation of the 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 20.1.2019;
- (i) in relation to (h) above, the implemented drainage facilities should be maintained all times during the planning approval period;
- (j) the provision of fire extinguisher(s) within **6** weeks with a valid fire certificate (FS 251) from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 1.6.2018;
- (k) the submission of fire services 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 20.10.2018;
- (l) in relation to (k) above, the implementation of fire services installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 20.1.2019;
- (m) if any of the above planning conditions (a), (b), (c), (d), (e), (f) 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;

- (n) if any of the above planning conditions (g), (h), (j), (k) or (l) 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
- (o) 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.

Advisory Clauses

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

**14. Decision Sought**

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval condition(s) and advisory clause(s), if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 Alternatively, should the Committee decide to reject the application, Members are invited to advise what reason(s) for rejection should be given to the applicant.

**15. Attachments**

<b>Appendix I</b>	Application Form with planning statement and plans received on 28.2.2018
<b>Appendix Ia</b>	SI received on 7.3.2018
<b>Appendix Ib</b>	FI submitted on 9.4.2018 and 10.4.2018
<b>Appendix II</b>	Relevant extract of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E)
<b>Appendix III</b>	Similar applications within the same “V” zone on the approved Pat Heung OZP
<b>Appendix IV</b>	Good Practice Guidelines for Open Storage Sites
<b>Appendix V</b>	Public comment received during the statutory publication period

<b>Appendix VI</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan
<b>Plan A-1</b>	Location Plan with Similar Applications
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo
<b>Plans A-4a and A-4b</b>	Site Photos

**PLANNING DEPARTMENT  
APRIL 2018**