

RNTPC Paper No. A/YL-PH/787
For Consideration by
the Rural and New Town
Planning Committee
on 7.9.2018

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-PH/787

- Applicant** : Chief Force Limited
- Site** : Lot 1863 RP (Part) in D.D. 111, Pat Heung, Yuen Long
- Site Area** : About 201 m²
- Lease** : Block Government Lease (demised agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Open Storage” (“OS”) (70%)
“Village Type Development” (“V”) (30%)
[Maximum building height of 3 storeys (8.23m)]
- Application** : Proposed Temporary Office 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 office for a period of 3 years. Majority of the Site falls within “OS” zone and the remaining part is within “V” zone. The Site is not the subject of previous application and is currently occupied by some temporary structures for storage purpose (**Plans A-2 to A-4**).
- 1.2 According to the applicant, two 2-storey temporary structures covered with shelter (5m in height) with a total floor area of about 226m² are proposed for office use. No parking and loading/unloading space will be provided on site. The operation hours are from 9:00 a.m. to 6:00 p.m., Mondays to Saturdays and no operation on Sundays and public holidays. The Site is accessible via a local track branching off from Kam Tin Road. The location, layout and vehicular access plans as submitted by the applicant are at **Drawings A-1 to A-3**.

- 1.3 In support of the application, the applicant has submitted the following documents:
- (a) Application form with planning statement and plans (**Appendix I**) received on 19.7.2018.
 - (b) Further information (FI) received on 23.8.2018 (**Appendix Ia**) responding to departmental and public comments.
(accepted and exempted from publication and recounting requirements)
 - (c) FI received on 29.8.2018 and 31.8.2018 responding to (**Appendix Ib**) departmental comments.
(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 paragraph 9 of the Application Form and FI at **Appendices I to Ib**. They can be summarized as follows:

- (a) The Site will only be used as temporary office to support the users in the nearby “OS” zone, given the lack of land for such use in the vicinity and to meet the increasing local demand of office use in the area. No permanent structure will be erected and no living area will be provided within the proposed development.
- (b) Fire service installations on site will be maintained regularly and no flammable product will be stored at the Site.
- (c) There are several similar applications approved by the Rural and New Town Planning Committee (the Committee).
- (d) No parking and loading/unloading space will be provided and staff will use public transport. During construction of the proposed use, the adjacent temporary covered vehicle park approved under application No. A/YL-PH/777 (**Plan A-2**) will be used for loading/unloading of the construction materials. The temporary covered vehicle park will not be used after the construction of the proposed use.

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

The applicant is not a “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. 31) 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. **Background**

The Site is not the subject of active enforcement cases and there is currently no enforcement action against it. The use of the Site for office use without a valid planning permission constitutes an unauthorised development under the Town Planning Ordinance (the Ordinance). Should there be sufficient evidence to prove that the use on site is an unauthorized development under the Ordinance, appropriate enforcement action will be taken.

5. **Previous Application**

The Site is not the subject of any previous application.

6. **Similar Applications**

There are six similar applications on one site for “temporary site office” use within the same “V” zone. These applications No. A/YL-PH/ 434, 522, 584, 643, 717 and 785 were approved with conditions by the Committee for a period of 3 years between 2003 and 2018 for similar reasons that temporary approval would not frustrate the long-term planning intention; there was no Small House application at the site; no repairing works would be carried out on-site; the proposed temporary site office was not incompatible with the neighbouring use in the area and would unlikely induce adverse environmental impact to the immediate surroundings; and there were no adverse comment from Government departments and no local objection. Details are summarized in **Appendix II** and the location is shown on **Plan A-1**.

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

7.1 The Site is:

- (a) paved and occupied by some temporary structures for storage purpose ;
and
- (b) accessible to Kam Tin Road via a local track.

- 7.2 The surrounding areas are generally rural in character and mixed with storage/open storage yards, warehouses, parking of vehicles, residential structures/dwellings and vacant/unused land (**Plan A-2**):
- (a) to its immediate west and south within the “OS” zone are parking of vehicle (under approved application No. A/YL-PH/777), storage/open storage yards, warehouses and a plant nursery;
 - (b) to its north within the “V” zone are residential dwellings/structures, open storage yards, an office and vacant/unused land;
 - (c) to its further west within the “Agriculture” (“AGR”) zone are plant nursery, parking of vehicles, open storage yard (under approved applications No. A/YL-PH/740) and unused land.

8. Planning Intentions

- 8.1 The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises.
- 8.2 The planning intention of the “V” zone 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.

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 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) The Site is accessible from 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 over the GL 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 planning approval be given to the application, the lot owners will need to apply to his office to permit the structures to be erected or regularize any irregularity on site. Besides, given the proposed use is temporary in nature, only application for regularization or erection of temporary structure(s) will be considered. No construction of New Territories Exempted Building(s) will be considered or allowed. Applications for any of the above will be considered by the LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such application will be approved. If such application is approved, it will be subject to such terms and conditions, including among others the payment of premium or fee, as may be imposed by the LandsD.
- (e) There is no Small House application approved or under processing within the Site and in the vicinity.

Traffic

9.1.2 Comments of the Commissioner for Transport (C for T):

He has no comment on the application from traffic engineering perspective given that the applicant will carry out loading/unloading activities under the area of the temporary vehicle park (under approved application No. A/YL-PH/777) (**Plan A-2**).

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

- (a) His department does not and will not maintain any 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

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

There was no environmental complaint 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 DEP.

Nature Conservation

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

The Site is located within “V” and “OS” zones and is disturbed. He has no comment on the application from nature conservation perspective. Nevertheless, should the application be approved, the applicant is advised to avoid polluted discharge to the watercourse near the Site (**Plan A-2**).

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.
- (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 to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning permission.

Fire Safety

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

- (a) He has no objection in principle to the proposal 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.
- (c) 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

9.1.8 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) However, 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

9.1.9 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 UBW 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

9.1.10 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 particular comments on the application.

9.2 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).

10. Public Comments Received During Statutory Publication Period

On 27.7.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 17.8.2018, seven objecting comments were received from members of the public mainly on the grounds that proposed use would involve destroy first and then develop for subdivided residential units (**Appendices III-1 to III-7**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary office for a period of 3 years. Major portion of the Site falls within an area zoned “OS” (70%) on the OZP. The planning intention of the “OS” zone is primarily for the provision of land for appropriate open storage uses and to regularise the already haphazard proliferation of open storage uses. It provides for the orderly development of land for open storage uses that cannot be accommodated in conventional godown premises. The proposed use does not contravene the planning intention of the “OS” zone.
- 11.2 The remaining part of the Site falls within an area zoned “V” (30%) on the OZP. The planning intention of “V” zone 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. Although the proposed temporary office is not in line with the planning intention of the “V” zone, DLO/YL of LandsD advised that there is no Small House application approved or under processing at the Site and in the vicinity. It is considered that temporary approval for 3 years of the application would not jeopardise the long-term planning intention of the “V” zone.
- 11.3 The proposed use is not incompatible with surrounding area which are generally rural in character and mixed with storage/open storage yards, warehouses, parking of vehicles, residential structures/dwellings and vacant/unused land. In addition, there are six similar applications for temporary site office on one site within the same “V” zone approved with conditions by the Committee between 2003 and 2018 mainly on the reasons as stated in paragraph 6 above.
- 11.4 Relevant departments consulted including DEP, DAFC, CE/MN of DSD, D of FS and C for T have no objection to or adverse comment on the application. To minimise any potential nuisance, approval conditions restricting the operation hours are recommended in paragraphs 12.2 (a) to (b) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on the Site will be subject to enforcement action by the Planning Authority. Besides, the applicant will be 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 in order to alleviate any potential impact. The technical requirements of CE/MN of DSD and D of FS could be addressed by approval conditions in paragraphs 12.2 (c) to (g) below.

- 11.5 Seven public comments objecting the application were received during the statutory publication period as stated in paragraph 10 above. In this regard, the application is for proposed temporary office use. The planning assessments and considerations above are also relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments in paragraph 10, the Planning Department considers that the proposed temporary office could be tolerated for a period of 3 years.
- 12.2 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 until 7.9.2021. 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 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) 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 7.3.2019;
- (d) in relation to (c) above, the implementation of 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 7.6.2019;
- (e) in relation to (d) above, the implemented drainage facilities on Site shall be maintained at all times during the planning approval period;
- (f) the submission of 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 7.3.2019;

- (g) in relation to (f) above, the provision of fire service installations 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 7.6.2019;
- (h) if any of the above planning conditions (a), (b) or (e) 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;
- (i) if any of the above planning conditions (c), (d), (f) or (g) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (j) 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 IV**.

- 12.3 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 "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. There is no strong planning justification in the submission for a departure from such planning intention, even on a temporary basis.

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

14. Attachments

Appendix I	Application form received on 19.7.2018
Appendix Ia	Further Information received on 23.8.2018 responding to departmental and public comments
Appendix Ib	Further Information received on 29.8.2018 and 31.8.2018 responding to departmental comments
Appendix II	Similar Applications within the same “V” zone on the Pat Heung OZP
Appendices III-1 to III-7	Public comments received during the statutory publication period
Appendix IV	Advisory Clauses
Drawing A-1	Location Plan
Drawing A-2	Layout Plan
Drawing A-3	Vehicular Access Plan
Plan A-1	Location Plan with Similar Applications
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
SEPTEMBER 2018**