

RNTPC Paper No. A/YL-PH/841  
For Consideration by  
the Rural and New Town  
Planning Committee  
on 26.6.2020

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

**APPLICATION NO. A/YL-PH/841**

- Applicant** : Chief Force Limited
- Site** : Lot 303 (Part) in D.D. 110, Pat Heung, Yuen Long, New Territories
- Site Area** : 1,331m<sup>2</sup>
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Pat Heung Outline Zoning Plan (OZP) No. S/YL-PH/11
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Shop and Services (Sales of Vehicle Parts) 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 shop and services (sales of vehicle parts) for a period of three years. The Site is zoned “AGR” on the Pat Heung OZP and the proposed use is neither Column 1 nor Column 2 use in the “AGR” zone. According to the Notes of the OZP, temporary use or development of any land not exceeding a period of three years requires planning permission from the Town Planning Board (the Board), notwithstanding that the use or development is not provided for in terms of the OZP. The Site is not subject to any previous application and is currently vacant with some temporary structures (**Plans A-2 to A-4b**).
- 1.2 According to the applicant, the proposed development involves two 1 to 2-storey structures (5m to 6m in height) with a total floor area of 319m<sup>2</sup> for site office, staff rest room, sales and display room for vehicle parts. Some display racks and cabinets will also be erected at the Site to display various vehicle parts. The proposed development will provide parking spaces for 2 private cars and 1 light goods vehicle and no vehicles exceeding 5.5 tonnes will be involved. The operation hours are from 9:00 a.m. to 6:00 p.m. from Tuesday to Sunday, with no operation on Mondays and selected public holidays (i.e. Lunar New

Year, Ching Ming Festival, Tuen Ng Festival, Mid-Autumn Festival and Chung Yeung Festival). The Site is accessible by a local track leading to Kam Tai Road and Kam Tin Road. The layout plan with fire service installations (FSIs) proposal and vehicular access plan submitted by the applicant are at **Drawings A-1 and A-2**.

1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application form with supplementary planning statement and plans received on 28.4.2020 **(Appendix I)**
- (b) Further Information (FI) received on 15.5.2020 and 18.5.2020 in response to departmental comments **(Appendix Ia)**  
*(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 at **Appendix I**. They can be summarized as follows:

- (a) The proposed development will be used for the sales and display of a variety of vehicle parts. It will allow customers to review samples of the vehicle parts before purchase. The proposed use is temporary in nature and will not frustrate the long-term planning intention.
- (b) The proposed development will not involve the storage of flammable materials, and will not involve any dismantling, repair, maintenance, cleansing, paint spraying or other workshop activities. No adverse traffic impact is anticipated. The applicant will comply with all the approval conditions and meet the requirements of relevant departments if planning approval is granted.

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

The applicant is not the “current land owner” of the Site but has complied with the requirements as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31A) by posting 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 subject to planning enforcement action (No. E/YL-PH/831) against an unauthorized development (UD) involving storage use. An Enforcement Notice was issued on 10.12.2019 requiring discontinuation of the UD. Subsequent site inspections revealed that the UD was discontinued. The Site will be kept under close monitoring for further action, if necessary.

**5. Previous Application**

The Site is not involved in any previous application.

**6. Similar Applications**

There are two similar applications within the same “AGR” zone. Applications No. A/YL-PH/754 (temporary shop and services – motor vehicle showroom) and No. A/YL-PH/766 (temporary shop and services – sales of vehicle parts) were approved by the Rural and New Town Planning Committee (the Committee) for a period of 3 years in September 2017 and March 2018 respectively on similar considerations that temporary approval of the application would not frustrate the long-term planning intention of the “AGR” zone; it was not incompatible with the surrounding land uses; relevant government departments consulted generally had no adverse comment on the application; and concerns of the relevant government departments could be addressed by imposing approval conditions. Details of the applications are summarized in **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) vacant and paved with some temporary structures; and
- (b) accessible via a local track leading from Kam Tai Road and Kam Tin Road.

7.2 The surrounding area is rural in character intermixed with vacant / unused land, cultivated agricultural land, residential dwellings / structures, vehicle park and open storage / storage yards. Some of the open storage / storage yards are suspected UDs subject to enforcement action by the Planning Authority:

- (a) to the immediate east is vacant land (with planning permission for temporary motor vehicle showroom). To the west, north and further east are cultivated agricultural land, residential dwellings / structures, open

storage / storage yards (one site with planning permission for sales of vehicle parts) and unused / vacant land; and

- (b) to the south across a nullah are vacant / unused land, vehicle park (with planning permission), open storage yards, cultivated agricultural land, and residential dwellings / structures.

## **8. Planning Intention**

The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes.

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

- 9.1 The following Government departments have been consulted and their views 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) 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/New Territories West, Highways Department (CHE/NTW, HyD):

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

### **Agriculture**

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

The Site is currently paved vacant land occupied by several temporary structures. Agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as greenhouses, plant nurseries etc. He does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation.

### **Landscape**

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

- (a) She has no objection to the application from the landscape planning point of view.
- (b) Based on the aerial photo taken on 3.1.2018, the Site is situated in an area of disturbed rural landscape character comprising of scattered tree groups, open storage yards, temporary structures, village houses and abandoned farmlands. Noting that applications for similar temporary shop and services use adjacent to the Site were approved by the Committee, the proposed development is not entirely incompatible with the landscape character of the area. Referring to the site visit dated 11.5.2020, the Site is paved and occupied with temporary structures. No existing tree is observed within the Site. Significant adverse impact on landscape resources within the Site is not anticipated.

### **Drainage**

9.1.7 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 on the submission of a drainage proposal, and implementation

and maintenance of the drainage proposal for the development should be included.

### **Fire Safety**

#### 9.1.8 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) 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 FSI 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.

### **Building Matters**

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

- (a) As there is no record of approval by the Building Authority (BA) for the existing structures at the Site, BD is not in a position to offer comments on their suitability for the proposed use.
- (b) The applicant's attention is drawn to the following points:
  - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of the BA, they are unauthorised building works (UBW) under the BO and should not be designated for any proposed use under the application.
  - (ii) For UBW erected on leased land, enforcement action may be taken by the BD to effect their removal in accordance with the prevailing 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.

- (iii) 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 BA should be obtained, otherwise they are UBW. An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (iv) 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.
- (v) The Site does not abut on a specified street of not less than 4.5m wide and 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):

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

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

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

## **10. Public Comments Received During Statutory Publication Period**

On 5.5.2020, the application was published for public inspection. During the three-week statutory publication period, three public comments from Kadoorie Farm and Botanic Garden, Designing Hong Kong Limited and an individual (**Appendices**



III-1 to III-3) were received. They object to the application mainly on the grounds that the proposed development is not in line with the planning intention of the “AGR” zone; there is UD associated with the Site and the current application is to legitimize the UD and rewarding the “destroy first, build later” practice; brownfield uses should be cleaned up to allow the Site to fulfil its planning intention; and approval of the application would set an undesirable precedent.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for proposed temporary shop and services (sales of vehicle parts) for a period of 3 years at a site zoned “AGR”. The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. The proposed development is not in line with the planning intention of the “AGR” zone. DAFC does not support the application from agricultural point of view as the Site possesses potential for agricultural rehabilitation. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis.
- 11.2 The surrounding area is rural in character and intermixed with vacant / unused land, cultivated agricultural land, residential dwellings / structures and vehicle park, while some of the open storage yards are suspected UDs subject to enforcement action by the planning authority. The proposed development is considered not entirely incompatible with the locality.
- 11.3 Relevant departments consulted, including C for T, DEP, CE/MN of DSD and D of FS (except DAFC) have no adverse comment on the application.
- 11.4 The Site is not involved in any previous application. There are two similar applications for temporary shop and services use (motor vehicle showroom and sales of vehicle parts) within the same “AGR” zone to the east of the Site. Both were approved with conditions in 2017 and 2018 on the considerations as detailed in paragraph 6 above, including no adverse comment from the DAFC. However, DAFC does not support the current application from agricultural point of view.
- 11.5 Three public comments were received during the statutory publication 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 mentioned in paragraph 10, 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 "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. 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 26.6.2023. 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 Mondays and the specified public holidays (i.e. Lunar New Year, Ching Ming Festival, Tuen Ng Festival, Mid-Autumn Festival and Chung Yeung Festival), as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no medium or heavy goods vehicles exceeding 5.5 tonnes, including container tractors/trailers, as defined in the Road Traffic Ordinance are allowed to be parked/stored on or enter/exit the Site at any time during the planning approval period;
- (d) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (e) 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 26.12.2020;
- (f) in relation to (e) 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 26.3.2021;

- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) 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 26.12.2020;
- (i) in relation to (h) above, the implementation of fire service 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 26.3.2021;
- (j) if any of the above planning condition (a), (b), (c), (d) or (g) 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;
- (k) if any of the above planning condition (e), (f), (h) or (i) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (l) 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 at **Appendix IV**.

**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**

<b>Appendix I</b>	Application Form with supplementary planning statement and plans received on 28.4.2020
<b>Appendix Ia</b>	FI received on 15.5.2020 and 18.5.2020
<b>Appendix II</b>	Similar applications within the same “AGR” zone on the Pat Heung OZP
<b>Appendices III-1 to III-3</b>	Public comments received during the statutory publication period
<b>Appendix IV</b>	Advisory Clauses
<b>Drawing A-1</b>	Layout Plan with FSI proposal
<b>Drawing A-2</b>	Vehicular Access 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  
JUNE 2020**