

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

APPLICATION NO. A/HSK/74

- Applicant** : Triotech Limited
- Site** : Lots 95 (Part), 96 (Part), 108 S.A (Part), 119 (Part), 154 (Part), 155, 156 (Part), 157 RP (Part) and 158 RP (Part) in D.D.124, Ha Tsuen, Yuen Long
- Site Area** : 3,291m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Hung Shui Kiu and Ha Tsuen (HSK and HT) Outline Zoning Plan (OZP) No. S/HSK/1
- Zoning** : “Open Space” (“O”)
- Application** : Temporary Cargo Handling and Forwarding Facility (Logistics Centre) 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 cargo handling and forwarding facility (logistics centre) for a period of 3 years (**Plan A-1a**). The Site falls within “O” zone on the draft HSK and HT OZP No. S/HSK/1. According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years within the zones requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP.
- 1.2 The Site is related to six previous applications for various temporary open storage use with ancillary workshop and logistics centre uses (**Plan A-1b**). The last planning application (No. A/YL-HT/945) for the same temporary cargo handling and forwarding facility (logistics centre) was approved by the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board) with conditions on 17.4.2015 for a period of 3 years. All the time-limit approval conditions have been complied with. The planning permission lapsed on 18.4.2018. The Site is currently occupied by the applied use without a valid planning permission.

- 1.3 The Site is accessible from Tin Ha Road via a local track (**Drawing A-1 and Plan A-2**). According to the layout plan at **Drawing A-1**, the ingress/egress is located at the southern part of the Site. Four structures with a total floor area of 1,845m² (including one single-storey structure for logistics centre (6m high with a floor area of about 1,650m²), a two-storey structure for site office (5m high with a floor area of about 160m²), and two single-storey structures for storage (5m high with a floor area of about 15m²) and for toilet (2.6m high with a floor area of about 20m²)) are proposed. Two parking spaces for private cars are also proposed. The open area is mainly intended for vehicle waiting area.
- 1.4 According to the applicant, the operation hours of the Site are from 8:00 a.m. to 8:00 p.m., there will be no operation on Sundays and public holidays. The vehicular access and proposed layout plan, proposed landscape and tree preservation plan and proposed drainage plan are at **Drawings A-1 to A-3** respectively.
- 1.5 The major development parameters of the current application are the same as those of the last approved application (A/YL-HT945) except a minor reduction in site area by 3m² and are given in the following table:

Applied Use	Temporary Cargo Handling and Forwarding Facility (Logistics Centre) (3 Years)
Site Area	about 3,291m ²
No. of Structures	4
Total Floor Area	about 1,845m ²
Parking Spaces	2 for private cars

- 1.6 In support of the application, the applicant has submitted the following documents:
- (a) Application form received on 3.5.2018 **(Appendix I)**
 - (b) Supplementary planning statement with vehicular access and proposed layout plan, proposed landscape and tree preservation plan and proposed drainage plan **(Appendix Ia)**

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 Ia**. They can be summarized as follows:

- (a) The site was developed in 1999. It was the subject of 6 previous planning approvals for the similar open storage and port back-up uses. The concerned uses are tolerated in the past and there is no major change in planning circumstance. As the previous permission was valid until 17.4.2018, the present application was submitted for continual planning control. The previous implemented facilities for the development would be maintained.

- (b) While the Site is zoned “O” on the OZP, the applied use is only temporary in nature, can easily be reinstated and will not affect the permanent land use for the area. Should the Government have other development on the Site, the subject planning application can be resumed for other purpose. The applied use is also compatible with similar uses in the vicinity.
- (c) The site falls within the “Category 1 areas” of the Board’s Guidelines for Application for Open Storage and Port Back-up Uses No. 13E, which are considered suitable for open storage uses, and favourable consideration would normally be given.
- (d) All the approval conditions under the previous planning permission (No. A/YL-HT/945) have been complied with. Should the application be approved, the applicant would appoint experienced company to continue to maintain and improve the implemented facilities.
- (e) Preliminary technical assessments on the traffic, drainage, landscape and environmental aspects have been provided to demonstrate that the proposed development would not generate adverse impacts to the surrounding areas. The applicant has also recommended a number of mitigation measures including planting trees and provision of fencing to minimize potential environmental impact and would not generate noise during daily operation. The operation hours are from 8:00 a.m. to 8:00 p.m. from Mondays to Saturdays and no operation on Sundays and public holidays.

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 publishing notice on 3 local newspapers. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

On 17.10.2008, the Board promulgated the revised Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E). The Site falls within Category 1 areas under the revised Guidelines. Relevant extracts of the Guidelines are attached at **Appendix II**.

5. Background

The Site is not subject to any active enforcement case. Notwithstanding, as the previous planning permission (A/YL-HT/945) on the Site has expired, investigation is underway to ascertain whether the current use on Site constitute an unauthorized development (UD). If confirmed, appropriate enforcement action under the Town Planning Ordinance would be taken.

6. Previous Applications

- 6.1 The Site is the subject of six previous applications (Nos. A/YL-HT/101, 190, 352, 558, 742 and 945) for various temporary open storage use and port back-up uses. Details of these applications are summarized at **Appendix III** and their locations are shown on **Plan A-1b**.
- 6.2 All six applications were approved by the Committee or the Board with conditions for a period of 3 years. However, two of them (Nos. A/YL-HT/101 and 742) were subsequently revoked due to non-compliance with approval conditions.
- 6.3 Compared with the last application No. A/YL-HT/945, the current application is submitted by the same applicant for the same use on a similar site with the same layout and development parameters. All the time-limit approval conditions have been complied with.

7. Similar Applications

There are three similar applications (No. A/YL-HT/610, 834 and 1065) for temporary open storage and container repair workshop use within the same “O” zone on the OZP since the promulgation of TPB PG-No. 13E on 17.10.2008. All these similar applications were approved by the Committee taking into consideration that the applied uses were not incompatible with the surrounding uses. Particulars of these applications and the decisions of the Committee are summarized at **Appendix IV**. The locations of these application sites are shown on **Plan A-1a**.

8. The Site and Its Surrounding Areas (Plan A-1 to Plans A-4a to b)

8.1 The Site is:

- (a) accessible from Tin Ha Road via a local track via ingress and egress at the southern boundary of the Site (**Plan A-2**); and
- (b) currently being occupied by the applied use without a valid planning permission.

8.2 The surrounding areas have the following characteristics:

- (a) predominately open storage of container and construction materials, logistics centre, vehicle repairing workshop and general storage uses; and
- (b) to the further west of the Site at the opposite side of Tin Ha Road is the “V” zone for Kau Lee Uk Tsuen and San Sang Tsuen, a logistics centre and a workshop (suspected unauthorized developments (UD)) and village house (about 92m) uses are found.

9. Planning Intention

The planning intention of the “O” zone in the draft HSK and HT OZP is intended primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public.

10. Comments from Relevant Government Departments

10.1 The following Government departments have been consulted and their views on the application are summarised 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 private lots which are covered by Short Term Waivers (STWs) are listed below:

Lot Nos. (in D.D. 124)	STW	Purpose
95	2187	Workshop for Vehicle Dismantling and Storage of Scrap Metal
96	3714	Temporary Cargo Handling and Forwarding Facility (Logistics Centre)
155	3713	
156	3712	
119	1948	Storage and Repair of Container Boxes
154	1950	

- (c) The Site is accessible to Tin Ha Road through both private lots and Government Land (GL). His Office provides no maintenance work for the GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should the application be approved, the STW holders will need to apply to his Office for modification of the STW conditions if there are any irregularities on site and the lot owner(s) of the lot without STW will need to apply to his Office for permit the structures to be erected or regularize any irregularities on Site. Such application(s) will be considered by LandsD acting in the capacity of the landlord or lessor at its sole discretion and there is no guarantee that such applications 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 LandsD.

Traffic

10.1.2 Comments of the Assistant Commissioner for Transport/New Territories, Transport Department (AC for T/NT, TD):

- (a) He has no adverse comment to the application from traffic engineering viewpoint.

- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicle is allowed to queue back to public road or reverse onto/from public roads.
- (c) The local track leading to the Site is not under TD's purview. The applicant shall obtain consent of the owners/managing departments of the local track for using it as the vehicular access to the Site.

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

- (a) The access arrangement should be commented by TD.
- (b) Adequate drainage measures should be provided at the site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) HyD shall not be responsible for the maintenance of any access connecting the Site and Tin Ha Road.

Environment

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

- (a) He does not support the application because there are sensitive users in the vicinity (the closest residential dwelling being about 92m) and environmental nuisance is expected.
- (b) There is no substantiated environmental complaint pertaining to the Site received over the past 3 years.
- (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 Environmental Aspects of Open Storage and Temporary Uses' (COP).

Drainage

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

- (a) According to the applicant's submission, the existing drainage facilities which was implemented under an approved application No. A/YL-HT/945 will be maintained for the subject development. He has no objection in principle to the proposed development from a drainage point of view.
- (b) Should the application be approved, he would suggest that a condition should be stipulated in the approval letter requiring the applicant to maintain the existing drainage facilities and submit condition record of the existing drainage facilities to the satisfaction of his Division.

Building Matters

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

- (a) There is no record of approval by the Building Authority (BA) for the existing structures at the Site and BD is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) If the existing structures (not being a New Territories Exempted House) are erected on leased land without approval of the BD, they are unauthorized building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed 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) Before any new building works (including containers/open sheds as temporary buildings and land filling) are to be carried out on the Site, prior approval and consent of the BD should be obtained, otherwise they are UBW. An Authorized Person (AP) should be appointed as the coordinator for the proposed building works in accordance with the BO.
- (e) 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 respectively.
- (f) 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 Building (Planning) Regulations at the building plan submission stage.

Fire Safety

10.1.7 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.
- (c) 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.

- (d) The applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Long Term Development

10.1.8 Comments of the Project Manager (New Territories West), Civil Engineering and Development Department (PM(NTW), CEDD):

- (a) He has no objection to the captioned temporary use for 3 years, which should be considered in accordance with the provisions of the existing OZP and infrastructure capacities.
- (b) However, the Site falls within the boundary of the Hung Shui Kiu New Development Area (HSK NDA). According to the Planning and Engineering Study (P&E Study) for the HSK NDA, to ensure timely and orderly implementation, the development of HSK NDA and relevant site formation and infrastructure works would be implemented in five stages, viz. Advance Works and Stage 1 to Stage 4. The concerned lot(s) falls within a site under Stage 3 Works stages. While the detailed implementation programme for the project is still being formulated, based on the P&E Study, it is envisaged that clearance of the Site in question will not be arranged before the first population intake of the HSK NDA expected in 2024.

District Officer's Comment

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

His office has not received any comment from the locals on the application.

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);
- (b) Director of Leisure and Cultural Services (DLCS);
- (c) Commissioner of Police (C of P);
- (d) Chief Engineer/Sewerage Projects, DSD (CE/SP, DSD);
- (e) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (f) Director of Electrical and Mechanical Services (DEMS).

11. Public Comments Received During Statutory Publication Period

On 11.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period which ended on 1.6.2018, one public comment was received objecting the application on the ground of possible change in uses involving illegal activities after the approval (**Appendix V**).

12. Planning Considerations and Assessments

- 12.1 The Site falls within Category 1 areas under the TPB PG-No. 13E. The following considerations in the Guidelines are relevant:

Category 1 areas: favourable consideration will normally be given to applications within these areas, subject to no major adverse departmental comments and local objections, or the concerns of the departments and local residents can be addressed through the implementation of approval conditions. Technical assessments should be submitted if the proposed uses may cause significant environmental and traffic concerns.

- 12.2 The Site falls within the “O” zone. The planning intention of the “O” zone is intended primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. Whilst the development is not in line with the planning intention of the “O” zone, the implementation programme for this part of NDA is still being formulated and PM/NTW of CEDD and DLCS have no objection/no comment to the proposed temporary use for 3 years on the Site. In this regard, approval of the application on a temporary basis of 3 years would not jeopardize the long-term development of the Site. However, should the application be approved, it is suggested to include an advisory clause stating that the Site may be resumed by the Government at any time during the planning approval period for implementation of government projects.
- 12.3 The Site is located in an area which is predominantly occupied by open storage yards, logistics centres and workshops. The applied use is not incompatible with the surrounding land uses (**Plan A-2**).
- 12.4 The proposed development is generally in line with the TPB PG-No. 13E in that the Site falls within Category 1 areas which are considered suitable for open storage and port back-up uses; relevant proposals have been submitted to demonstrate that the proposed use would not generate adverse impacts; and technical concerns of relevant Government departments could be addressed through the implementation of approval conditions.
- 12.5 There is no major adverse comment from concerned Government departments, except DEP. DEP does not support the application because there are sensitive uses in the vicinity (the closest residential dwelling being about 92m away) and environmental nuisance is expected (**Plan A-2**). However, there is no substantiated environmental complaint pertaining to the Site in the past three years. Furthermore, relevant approval conditions have been recommended in paragraph 13.2 to address the concerns on the possible environmental nuisances or the technical requirements of the other concerned Government departments. Any non-compliance with these approval conditions would result in revocation of the planning permission and UD on Site would subject to enforcement action by the Planning Authority. Should the application be approved, the applicant will be advised to follow the ‘Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites’ in order to minimize the possible environmental impacts on the nearby sensitive receivers.

- 12.6 The Committee has approved 6 previous applications for temporary open storage uses with ancillary workshop and logistics centre at the Site and 3 similar applications for logistic yard use in the same “O” zone were approved since the promulgation of TPB PG-No. 13E on 17.10.2008 (**Plans A-1a and 1b**).
- 12.7 There is one public comment received on the application during the statutory publication period objecting the application on the ground of possible change in uses involving illegal activities after the approval. In this regard, any illegal activities or crime will be subject to law enforcement action.

13. Planning Department’s Views

- 13.1 Based on the assessment made in paragraph 12 above and having taken into account the public comment mentioned in paragraph 11, the Planning Department considers that the temporary logistics centre 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 until **15.6.2021**. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 8:00 p.m. and 8:00 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 vehicle is allowed to queue back to or reverse onto/from the public road at any time during the planning approval period;
- (d) the existing fencing on Site shall be maintained at all times during the approval period;
- (e) the existing drainage facilities shall be maintained at all times during the planning approval period;
- (f) the submission of a condition record of the existing drainage facilities on Site within **3** months from the date of the planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by **15.9.2018**;
- (g) the existing trees on Site shall be maintained at all times during the planning approval period;
- (h) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by **15.12.2018**;

- (i) in relation to (h) above, the implementation of the 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 **15.3.2019**;
- (j) if any of the above planning conditions (a), (b), (c), (d), (e) or (g) is not complied with during the 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 conditions (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 attached at **Appendix VI**.

13.3 Alternatively, should the Committee decide to reject the application, the following reason for rejection is suggested for Members' reference:

- (a) the temporary logistics centre is not in line with the planning intention of the "O" zone, which are intended primarily for the provision of outdoor open-air public space for active and/or passive recreational uses serving the needs of local residents as well as the general public. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis; and
- (b) the applicant fails to demonstrate that the temporary use of the Site would not have adverse environmental impact on the surrounding areas.

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 reasons for rejection should be given to the applicant.

15. Attachments

Appendix I	Application Form received on 3.5.2018
Appendix Ia	Supplementary planning statement with vehicular access plan, proposed layout plan, proposed landscape and tree preservation plan and proposed drainage plan
Appendix II	Relevant extracts of Town Planning Board Guidelines for Application for Open Storage and Port Back-up Uses (TPB PG-No. 13E)
Appendix III	Previous applications covering the Application Site
Appendix IV	Similar applications within the same “O” zone on the Hung Shui Kiu and Ha Tsuen OZP
Appendix V	Public comment
Appendix VI	Advisory Clauses
Drawing A-1	Vehicular Access and Proposed Layout Plan
Drawing A-2	Proposed Landscape and Tree Preservation Plan
Drawing A-3	Proposed Drainage 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 to 4b	Site Photos

**PLANNING DEPARTMENT
JUNE 2018**