

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-TKL/687

- Applicant** : Triumph Faith Limited represented by R-Riches Property Consultants Limited
- Site** : Lots 1090 S.A RP (Part), 1090 S.B, 1090 S.C RP (Part), 1106 RP (Part), 1107 (Part), 1108 (Part) and 1109 (Part) in D.D. 82, Ping Che Road, Ta Kwu Ling, New Territories
- Site Area** : 4,023m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
- Zoning** : “Agriculture” (“AGR”)
- Application** : Proposed Temporary Logistics Centre with Ancillary Parking of Container Vehicles and Office for a Period of 3 Years with Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for a proposed temporary logistics centre with ancillary parking of container vehicles and office for a period of 3 years with filling of land by 0.1m in depth (**Plan A-1**). The Site falls within an area zoned “AGR” on the approved Ping Che and Ta Kwu Ling OZP No. S/NE-TKL/14. According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years within “AGR” zone 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. The Notes for the “AGR” zone also provides that filling of land¹ requires planning permission from the Board. The Site is currently mostly vacant, partly paved and partly covered by wild grasses, trees and a temporary structure.
- 1.2 According to the applicant, the current application is submitted to facilitate the relocation of his logistic centre business (i.e. Lot 1941 S.A. (Part) in D.D. 95) in Kwu Tung North affected by the Kwu Tung North New Development Area (KTN NDA) development. The affected land has been resumed and reverted to the Government.

¹ Except for (i) laying of soil not exceeding 1.2m in thickness for cultivation; or (ii) construction of any agricultural structure with prior written approval issued by Lands Department.

- 1.3 The Site is accessible from Ping Che Road (**Plan A-2**). According to the applicant, the proposed temporary development is divided into the northern and southern portions (**Drawing A-1**) and its development parameters are summarised below:

	Northern Portion	Southern Portion
Site Area	About 3,133m ²	About 890 m ²
GFA	About 462m ²	About 126m ²
No. of Structures	3 (B1 & B2: Logistic Centre B3: Portable Toilet)	2 (B4 : Site office B5: Portable Toilet)
Building Height	B1 & B2 : about 5.5m B3: about 3.5m	B4 & B5: about 3.5m
No. of parking space / loading/unloading (L/UL) bay		
- Private car parking space	-	4
- Parking spaces for container vehicle	2	-
- Parking spaces for light goods vehicle (LGV)	2	-
- L/UL bay for LGV	4	-
- L/UL bay for container vehicle	2	-

- 1.4 According to the applicant's submission, the Site will be filled with about 0.1m in depth to facilitate the proposed temporary structures to be constructed and for circulation purpose. Apart from the proposed logistic centre and other ancillary facilities, the uncovered area of the Site is mainly used for manoeuvring space of vehicles. The operation hours of the Site are between 9:00 a.m. and 6:00 p.m. on Mondays to Saturdays. There would be no operation on Sundays and public holidays. The proposed indicative layout plan submitted by the applicant is at **Drawing A-1**.

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

- (a) Application form with planning statement received on (Appendix I) 28.10.2021
- (b) Further information received on 30.11.2021[^] (Appendix Ia)
- (b) Further information received on 30.11.2021[^] (Appendix Ib)

[^]accepted and exempted from publication

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the planning statement and further information at **Appendices I and Ia**. They can be summarised as follows:

Effort in Identifying Suitable Site for Relocation

- (a) the applicant has spent effort in identifying suitable site for relocation of the affected business in Kwu Tung North (KTN) to pave way for the Government's KTN NDA development; and
- (b) whilst the applicant has identified a number of alternative sites in various areas including Man Kam To, Ping Che, Kam Tin, Pat Heung, Man Uk Pin etc. for relocation of his logistic centre business in KTN, those sites were considered not suitable or impracticable due to various issues such as area being too small for operation, poor accessibility without proper connection with public road or land ownership issues etc. Though the Site is located away from their original occupation in KTN, the Site area (i.e. about 4,023m²) is similar to their original business in Kwu Tung North (i.e. about 4,500m²), and is directly accessible via Ping Che Road without causing adverse traffic impact on the surroundings;

The Applied Use is the Same as the Affected Business in Kwu Tung North

- (c) the proposed temporary development involves logistic activities with storage, packaging and consolidation of goods for distribution with ancillary parking of container vehicles and office use. The applied use is the same as the affected business in Kwu Tung North;

No Adverse Environmental Impact on the Surroundings

- (d) to address EPD's concerns on possible environmental nuisance, the applicant undertakes to provide the following mitigation measures:
 - (i) majority of the Site is for logistic purpose which will be conducted inside enclosed structures only. The remaining area is for container vehicle park and circulation;
 - (ii) the Site will be hard-paved to avoid fugitive dust impacts due to movement of vehicle;
 - (iii) the operating hours would be restricted from 9:00 a.m. to 6:00 p.m. on Mondays to Saturdays only to minimize noise impact;
 - (iv) erection of solid boundary wall, as proposed by the applicant, which would be installed properly by licensed contractor to prevent misalignment and ensure there is no gap or slit. Regular inspection would also be carried out;
 - (v) on-site portable toilets would be provided; and
 - (vi) to strictly follow EPD's latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" (COP), ProPECC PN 1/94 and and ProPECC PN 5/93;
- (e) the applicant has submitted a drainage proposal and fire service installations proposal in support of the application;

- (f) the proposed temporary development would have no more than 10 vehicular trips per day during peak hours (i.e. 8:00 a.m. to 9:00 a.m. at AM peak and 5:00 p.m. – 6:00 p.m. at PM peak respectively). All vehicles entering/exiting the Site are owned by the applicant and hence the estimated vehicular trips could be strictly followed. Staff will be deployed at the ingresses/egresses to manage traffic condition at Ping Che Road and direct vehicle entering / exiting the Site to ensure no vehicle will queue outside the Site. To ensure traffic safety, signages would be provided at the entrance of the Site; and
- (g) the estimated number of staff working at the Site is about fifteen. Majority of staff would take public transport services for commuting to the Site. No visitors are allowed to access the Site;
- (h) the proposed temporary development is accessible directly from Ping Che Road. In view of the low traffic generation/attraction from the proposed development, adverse traffic impact to the surrounding road networks is not anticipated; and
- (i) the applicant undertakes to reinstate the Site to a condition which is suitable for agricultural uses after the planning approval.

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.31A) by posting site notice and sending notice to the Ta Kwu Ling District Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not the subject of any enforcement case.

5. Town Planning Board Guidelines

Town Planning Board Guidelines for ‘Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance’ (TPB PG-No. 13F) promulgated on 27.3.2020 is relevant to the application. The Site falls within Category 3 area under the Guidelines, relevant extract of which is at **Appendix II**.

6. Previous Application

There is no previous application for the Site.

7. Similar Application

There is no similar application within “AGR” zone in the vicinity of the Site in the Ping Che

and Ta Kwu Ling area.

8. **The Site and Its Surrounding Areas** (Plans A-1 to A-2, aerial photo on Plan A-3 and site photos on Plans A-4a to A-4c)

8.1 The Site is:

- (a) fenced off, largely vacant, partly paved and partly covered by wild grasses, trees and a temporary structure; and
- (b) accessible from Ping Che Road (Plan A-2).

8.2 The surrounding areas have the following characteristics:

- (a) the Site is situated in an area of rural landscape character predominantly surrounded by vacant land, fallow agricultural land, open storage yards and temporary structures;
- (b) to the immediate east are mostly vacant land intermixed with a hobby farm, some warehouses and temporary structures while to the immediate northeast is a domestic structure;
- (c) to the immediate south is unused land; and
- (d) to the immediate west across Ping Che Road is Category 2 areas under the TPB PG-No. 13F with a valid planning permission No. A/NE-TKL/642 for open storage use (Plan A-2).

9. **Planning Intention**

The planning intention of the “AGR” zone is intended 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.

10. **Comments from Relevant Government Departments**

10.1 The following Government departments have been consulted and their views on the application and/or the public comment received are summarised as follows:

Policy Support

10.1.1 Comments of Secretary for Development (SDEV):

- (a) the current application is submitted by an operator whose logistics centre had already been cleared under the government-led KTN NDA project. It is understood that the applicant, even before his removal, had endeavored to identify suitable site for re-establishment of his business elsewhere in order to pave way for the clearance under the KTN NDA

project;

- (b) according to the applicant, site search has not been easy for the applicant given the limited supply of private land in the area with the suitable zoning which meet the operational requirements for the logistic centre use. The Site proposed in the current application is the only one considered suitable and practicable after an extensive site search carried out by the applicant. The applicant also claims that the proposed logistic centre is not incompatible with the surrounding land uses and would not cause adverse traffic or environmental impacts on the neighbouring area;
- (c) the land freed up by the displaced logistics centre will together with other cleared land be redeveloped into the KTN NDA, capable of providing about 43,600 public and private housing units in phases starting from 2026 onward. Facilitating relocation of affected brownfield operations including the rural workshops is important to the smooth clearance for and implementation of the NDA project; and
- (d) from the perspective of ensuring timely development of the NDA and delivery of the housing yield, as well as facilitating the continued operation of displaced brownfield operations still meeting the need of economy, the current application is fully supported.

Land Administration

10.1.2 Comments of the District Lands Officer/North, Lands Department (DLO/N, LandsD):

- (a) the Site comprises private lots which are Old Schedule lots held under the Block Government Lease (demised for agricultural use) without any guaranteed right of access. The applicant should make its own arrangement for acquiring access to the application lots, and there is no guarantee that any adjoining government land (GL) will be allowed for the vehicular access to the Site for the proposed use;
- (b) there is a structure erected within the Site without approval from her office. Her office reserves the right to take necessary lease enforcement actions against the unauthorized structure on the private lot as appropriate;
- (c) according to the proposed development, portable toilet would be erected on the site. The applicant should note that any proposed toilet facilities should meet the current health requirements;
- (d) it is noted that the land filling works would be performed on the Site. The applicant should make precautionary measures to restrict the scale of land filling activity so as to ensure no private lot(s)/GL adjacent to the Site would be disturbed. Besides, the applicant should also comply with all the land filling requirements imposed by relevant government department(s), if any; and

- (e) should the planning application be approved, the owner(s) of the lots concerned shall apply to her office for a Short Term Waiver (STW) covering all the actual occupation area and the structures concerned. The application for STW will be considered by government in its landlord's capacity and there is no guarantee that they will be approved. If the STW is approved, its commencement date would be backdated to the first date of occupation and it will be subject to such terms and conditions to be imposed including payment of waiver fee and administrative fee as considered appropriate by her office.

Traffic

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

- (a) it is noted from the applicant's submission that no more than 10 vehicular trips per day during peak hours (i.e. 8:00 a.m. to 9:00 a.m. at AM peak and 5:00 p.m. – 6:00 p.m. at PM peak respectively). The traffic impact is considered acceptable and the application is considered tolerable from traffic engineering point of view;
- (b) he has no further comment on the traffic management measures as proposed by the applicant. Those measures include the deployment of staff at the ingress/ egress points to monitor the traffic condition and erection of signages at the entrance of the Site for pedestrian safety; and
- (c) should the application be approved, the applicant is required to implement the traffic management measures as proposed by the applicant to his satisfaction.

10.1.4 Comments of the Chief Highway Engineer/New Territories East, Highways Department (CHE/NTE, HyD):

- (a) he has no adverse comment on the application;
- (b) the section of Ping Che Road adjacent to the Site is under HyD's maintenance purview. However, the proposed access to the Site will pass through a strip of land between Ping Che Road and the Site, which is outside HyD's maintenance purview (**Plan A-2**). The applicant is required to sort out the land issues with relevant land authorities;
- (c) the u-channel proposed along the site boundary should be so designed that no surface runoff will flow from the Site onto the adjacent public road; and
- (d) should the application be approved, the applicant is required to construct a proper ingress and egress for the Site according to HyD's Standard Drawings. Upon termination of the application, the applicant is required to reinstate the ingress and egress to their original state and to his satisfaction at applicant's own cost.

Environment

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

- (a) there are domestic structures in the vicinity of the Site (**Plan A-2**);
- (b) he has no in-principle objection to the application provided that the environmental mitigation measures as proposed by the applicant are implemented; and
- (c) should the application be approved, the applicant should be advised to strictly follow COP, ProPECC PN 1/94, ProPECC PN 5/93 and should also comply with all relevant environmental protection / pollution control ordinances.

Landscape

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

- (a) the Site is situated in an area of rural inland plains landscape character comprising open storage yards, vegetated areas, farmlands and cluster of trees. The proposed temporary development is considered not entirely incompatible with the existing landscape character of the surrounding area;
- (b) significant adverse impact on the existing landscape resources arising from the proposed use is not anticipated; and
- (c) in view that there are existing trees between the Site and Ping Che Road as landscape buffer, it is considered not necessary to impose a landscape condition should the application be approved.

Agriculture

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

- (a) agricultural activities are active in the vicinity and agricultural infrastructures such as road access and water source are also available. The Site can be used for agricultural activities such as open-field cultivation, greenhouses, plant nurseries, etc. As the Site possesses potential for agricultural rehabilitation, the application is not supported from agricultural point of view; and
- (b) she has no strong view on the subject application from nature conservation point of view.

Drainage

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

- (a) he has no objection to the application from the public drainage viewpoint;
- (b) should the application be approved, a condition should be included to request the applicant to submit and implement a drainage proposal for the Site to ensure that it will not cause adverse drainage impact to the adjacent area;
- (c) the Site is in an area where public sewerage connection is available; and
- (d) his advisory comments are appended at **Appendix IV**.

Fire Services

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

- (a) having reviewed the proposals for fire services installations (FSIs) and water supplies for firefighting as submitted by the applicant, he considered that the proposal is acceptable and has no in-principle objection to the application subject to FSIs and water supplies for firefighting being provided to the satisfaction of his department; and
- (b) detailed fire safety requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

- (a) he has no objection in-principle under the Buildings Ordinance to the proposed use on the Site; and
- (b) for any new proposed buildings, his advisory comments are at **Appendix IV**.

Water Supply

10.1.11 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/C, WSD):

- (a) he has no objection to the application; and
- (b) existing water mains are inside the subject lots and will be affected (**Plan A-2**). The applicant is required to either divert or protect the water mains found on site. His advisory comments are appended at **Appendix IV**.

District Officer's Comments

10.1.12 Comments of the District Officer (North), Home Affairs Department (DO(N), HAD):

- the incumbent North District Council member of subject constituency and the Indigenous Inhabitant Representative (IIR) of Tai Po Tin object to the proposal on the grounds that the proposed development will cause adverse traffic impact on the surrounding area and pedestrian safety issues. The 1st Vice-Chairman of Ta Kwu Ling District Rural Committee (TKLDRC), the Chairman of Fung Shui Area Committee, the IIR of Lei Uk and the Resident Representative (RR) of Lei Uk, the IIR of Tong Fong, the RR of Tong Fong and the RR of Tai Po Tin had no comment on the application.

10.2 Director of Electrical and Mechanical Services has no objection on the application. His advisory comments are appended at **Appendix IV**.

11. Public Comments Received During Statutory Publication Period (Appendix III)

On 5.11.2021, the application was published for public inspection. During the statutory public inspection period, 4 public comments were received. A North District Council member indicates no comment on the application. Kadoorie Farm and Botanic Garden and two individuals object to the application on the grounds that the proposed development is not in line with the planning intention of the "AGR" zone; there are active farmland in the vicinity of the Site; adverse environmental impact would be induced; and the displaced brownfield operations should be relocated to other sites under appropriate zonings.

12. Planning Considerations and Assessments

- 12.1 The application is for a proposed temporary logistics centre with ancillary parking of container vehicles and office for a period of 3 years with filling of land by 0.1m in depth at the Site zoned "AGR" on the OZP (**Plan A-1**). According to the applicant, this application is to facilitate the relocation of his logistic centre under the government-led KTN NDA. Whilst the applicant has spent effort in identifying suitable sites to relocate the logistic centre to a number of alternative locations, those sites were considered not suitable or impracticable due to various issues such as area being too small, poor accessibility or environmental problems, etc. Though the Site is located away from their original occupation, the Site area (i.e. about 4,023m²) is similar to their original business in KTN (i.e. about 4,500m²). With the policy objective of ensuring timely development of the NDA and delivery of the housing yield, as well as facilitating the continued operation of displaced brownfield operations still meeting the need of economy, SDEV fully supports the application.
- 12.2 The proposed temporary use is not in line with the planning intention of the "AGR" zone 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, and DAFC does not support the application from the agricultural perspective as the Site possess potential for agricultural rehabilitation. Nonetheless, it is noted that parts of the Site are

currently hard paved and covered with wild grasses. In view of the above and with the policy support given by SDEV, it is considered that the approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the "AGR" zone.

- 12.3 The Site is situated in an area of rural landscape character surrounded by open storage yards, vacant land, fallow farmlands and temporary structures (**Plans A-2 and A-3**). The proposed temporary use is considered not entirely incompatible with the existing landscape character in the surrounding area. CTP/UD&L of PlanD considers that significant adverse impact on the existing landscape resources arising from the proposed use is not anticipated.
- 12.4 The Site falls within Category 3 areas where applications would normally not be favourably considered unless the applications are on sites with previous planning approvals under the TPB PG-No. 13F. Nonetheless, the Guidelines also states that if the operators/uses are affected by resumption and clearance operations of the Government and face difficulties in finding a replacement site, sympathetic considerations could be given to those applications for relocation of the affected uses/operations to the concerned sites, if policy support is given by the relevant bureau and no adverse departmental comments on technical aspects or local objections or such concerns could be addressed by approval conditions.
- 12.5 The Site is directly accessible via Ping Che Road. C for T, having considered the information submitted by the applicant, considers that the traffic impact is acceptable and the application is considered tolerable from traffic engineering point of view. DEP also has no in-principle objection to the application as the applicant undertakes the implementation of relevant mitigation measures. To address environmental concerns, relevant approval conditions in relation to the implementation of the environmental mitigation measures are also recommended. Moreover, the applicant will be advised to follow the latest COP issued by DEP to minimize the potential environmental impacts on the surrounding areas. Other relevant Government departments consulted, including CE/MN of DSD, D of FS and CE/C of WSD, have no adverse comment on/no objection to the application.
- 12.6 Regarding the local objection conveyed by DO(N), HAD and the adverse public comments mainly on traffic and environmental aspects as detailed in paragraphs 10.1.12 and 11 above respectively, Government departments' comments and planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the local objections conveyed by DO(N) of HAD and public comments in paragraphs 10.1.12 and 11 above, the Planning Department considers that the temporary use under the application 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 24.12.2024. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission of a 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 24.6.2022;
- (b) in relation to (a) above, the provision of drainage facilities 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 24.9.2022;
- (c) the submission of run-in/out proposal within 6 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 24.6.2022;
- (d) in relation to (c) above, the implementation of run-in/out proposal within 9 months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 24.9.2022;
- (e) the implementation of proposals for fire services installations and water supplies for firefighting, as proposed by the applicant, 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 24.9.2022;
- (f) the implementation of environmental mitigation measures, as proposed by the applicant, within 9 months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 24.9.2022;
- (g) if any of the above planning conditions (a), (b), (c), (d), (e) or (f) 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
- (h) upon expiry of the planning permission, the reinstatement of the Site to an amenity area to the satisfaction of Director of Planning or of the Town Planning Board.

Advisory Clauses

The recommended advisory clauses are at **Appendix IV**.

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

- the proposed development is not in line with the planning intention of the "AGR" zone, which is intended 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. There is no strong justification in the submission for a departure from such planning intention, even on a temporary basis.

14. Decision Sought

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

Appendix I	Application form with planning statement received on 28.10.2021
Appendix Ia	Further information received on 30.11.2021
Appendix Ib	Further information received on 9.12.2021
Appendix II	Relevant extract of TPB PG-No. 13F
Appendix III	Public Comments
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Layout Plan
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to 4c	Site Photos

**PLANNING DEPARTMENT
DECEMBER 2021**