

**APPLICATION FOR RENEWAL OF PLANNING APPROVAL
FOR TEMPORARY USE
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

APPLICATION NO. A/NE-TKL/778

<u>Applicant</u>	: Triumph Faith Limited represented by R-riches Property Consultants Limited
<u>Site</u>	: 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
<u>Site Area</u>	: About 4,023m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Approved Ping Che and Ta Kwu Ling Outline Zoning Plan (OZP) No. S/NE-TKL/14
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Renewal of Planning Approval for Temporary Logistics Centre with Ancillary Parking of Container Vehicles and Office for a Period of Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to continue using the application site (the Site) for temporary logistics centre with ancillary parking of container vehicles and office for a period of three years and associated filling of land (**Plan A-1**). The Site falls within an area zoned “AGR” on the OZP. According to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years and filling of land within the “AGR” zone require planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with valid planning permission until 24.12.2024.
- 1.2 The Site, divided into two portions, is accessible from Ping Che Road (**Plan A-2**). According to the applicant, the applied use consists of five single-storey structures with a total floor area of about 588m² and building height of about 3.5-5.5m for logistics centres (i.e. storage, packaging and consolidation of goods for distribution), site office and portable toilets. No dangerous goods will be stored at the Site at any time during the planning approval period. The remaining uncovered area is mainly used for parking of vehicles and circulation space. A total of eight car parking spaces (i.e. four for private cars, two for light goods vehicles (LGV) and two for container vehicles) and six loading/unloading (L/UL) spaces (i.e. four for LGV and two for container vehicles) are

provided at the Site. The operation hours are between 9:00 a.m. and 6:00 p.m. from Mondays to Saturdays with no operation on Sundays and public holidays. The layout plan submitted by the applicant is shown in **Drawing A-1**.

- 1.3 According to the applicant, the entire Site has already been filled with concrete of not more than 0.1m in depth for site formation of structures, parking spaces, L/UL bays and circulation area under the previous application and no further filling of land will be carried out at the Site (**Drawing A-2**). The applicant commits to reinstate the Site to an amenity area after the planning approval period.
- 1.4 The applicant commits to strictly follow the applied scheme, and no open storage activities will take place within the Site at any time during the planning approval period. They will continue to maintain the implemented facilities (including drainage facilities, run-in/out and fire service installations (FSIs)) and the environmental mitigation measures (including conducting logistic-related activities inside enclosed structures only, erecting solid boundary wall and restricting operation hours) under the previous application No. A/NE-TKL/687. The applicant has submitted the accepted drainage, run-in/out and FSIs proposals under the previous application No. A/NE-TKL/687 (**Drawings A-3 to A-5**), the corresponding photo records and a set of valid FSIs certificate to support the current application.
- 1.5 The Site is the subject of a previous application No. A/NE-TKL/687 for the same use submitted by the same applicant as the current application, which was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 24.12.2021 (details at paragraph 6 below). Compared with the previously approved application, all development parameters and the site layout under the current application remain unchanged. The applicant has complied with all approval conditions under the previous application.
- 1.6 In support of the application, the applicant has submitted the following documents:
 - (a) Application Form with attachments received on 27.9.2024 (**Appendix I**)
 - (b) Further Information (FI) received on 12.11.2024* (**Appendix Ia**)

* 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 the Application Form and FI at **Appendices I and Ia**, as summarised below:

- (a) the applied use is the same as the previously approved application No. A/NE-TKL/687 which was to facilitate the relocation of the applicant's business operation in Kwu Tung North (KTN) affected by the KTN New Development Area (NDA). The site area (i.e. about 4,023m²) of the current application is similar to the affected business operation in KTN (i.e. about 4,500m²);
- (b) the current application is intended to renew the planning approval and all approval conditions under the previous planning application have been complied with. Approval of the current application on a temporary basis is in line with the Board's previous decision and would not set an undesirable precedent for the "AGR" zone;

- (c) the applied use is not incompatible with the surrounding land uses predominately occupied by open storage yards, vacant land and temporary structures. The applicant will strictly follow the 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' (COP) issued by the Environmental Protection Department and all environmental protection/pollution control ordinances to minimise adverse environmental impacts and nuisance to the surrounding area. No adverse traffic, environmental, landscape and drainage impacts are anticipated; and
- (d) the applicant will strictly follow the applied scheme and will rectify the land matters after obtaining the planning approval from the Board.

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. 31B) by posting site notice and sending notice to Ta Kwu Ling Rural Committee. Detailed information would be deposited at the meeting for Member’s inspection.

4. Town Planning Board Guidelines

- 4.1 The Town Planning Board Guidelines No. 13G for Application for Open Storage and Port Back-up Uses under Section 16 of the Town Planning Ordinance (TPB PG-No.13G) promulgated by the Board on 14.4.2023 are relevant to the application. The Site falls within Category 2 (95%)¹ and Category 3 (5%) areas under the Guidelines. Relevant extracts of the Guidelines are at **Appendix II**.
- 4.2 The Town Planning Board Guidelines on ‘Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development’ (TPB PG-No. 34D) are also relevant to the application. The relevant assessment criteria are attached at **Appendix III**.

5. Background

The Site is currently not subject to any active enforcement action.

6. Previous Application

- 6.1 The Site is the subject of a previously approved application No. A/NE-TKL/687 for the same use submitted by the same applicant as the current application. It was approved with conditions by the Committee on 24.12.2021 mainly on the considerations that the application was generally in line with the then TPB PG-No. 13F in that policy support was given to facilitate the relocation of the applicant’s business operation affected by the KTN NDA; the proposed temporary use was considered not entirely incompatible with the landscape character in the surrounding areas; and no major adverse comments were received from concerned government departments. The planning approval is valid until 24.12.2024.

¹ Part of the Site was reclassified from Category 3 to Category 2 area under the TPB PG-No. 13G.

- 6.2 Details of the previous application are summarised at **Appendix IV** and its location is shown on **Plan A-1**.

7. Similar Application

- 7.1 There was a similar application in “AGR” zone in the vicinity of the Site in the past five years. Application No. A/NE-TKL/759 for proposed temporary logistics centre for a period of three years and filling of land and pond was approved with conditions by the Committee on 4.10.2024 mainly on the considerations that the application was generally in line with the TPB PG-No. 13G in that policy support was given to facilitate the relocation of the applicant’s business operation affected by the Fanling North NDA, and that no major adverse departmental comments were received on the application and the concerns of the relevant government departments could be addressed through implementation of approval conditions.
- 7.2 Details of the similar application are summarised at **Appendix V** and its location is shown on **Plan A-1**.

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

- 8.1 The Site is:
- (a) currently used for the applied use with a valid planning permission;
 - (b) fenced-off and hard-paved; and
 - (c) accessible from Ping Che Road.
- 8.2 The surrounding areas are of rural character comprising mainly open storage yards, temporary structures, a warehouse, agricultural land, vacant land, a hobby farm and domestic structures. To the further northeast of the Site is a vegetated knoll zoned “Green Belt” (“GB”).

9. Planning Intention

- 9.1 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.
- 9.2 According to the Explanatory Statement of the OZP, as filling of land within the “AGR” zone may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

10. Comments from Relevant Government Bureau/Departments

- 10.1 Apart from the government bureau and department as set out in paragraphs 10.2 and 10.3 respectively below, other government departments consulted have no objection to or no

adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided at **Appendices VI and VII** respectively.

10.2 The following government bureau supports the application:

Policy Aspect

10.2.1 Comments of the Secretary for Development (SDEV):

- (a) the application seeks to renew a previously approved application No. A/NE-TKL/687 for the same applied use submitted by the same applicant. The aforesaid previously approved application was to facilitate relocation of a logistics centre affected by the government-led KTN NDA project;
- (b) according to the applicant, there is no change in the major development parameters and operation mode. The applicant has also complied with all the approval conditions, and it is noted from site photos that the Site is already under operation; and
- (c) given the above, support to the current application is maintained from the perspective of ensuring timely development of the NDA and delivery of the housing yield, as well as facilitating the continued operation of the affected brownfield operations. The land freed up by the operation will, together with other cleared land, be redeveloped into the KTN NDA, capable of providing about 49,900 housing units in phases. Facilitating relocation of affected brownfield operations is crucial to the smooth clearance for and implementation of the NDA project.

10.3 The following government department objects to the application:

Land Administration

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

- (a) she objects to the application;
- (b) the Site comprises 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. No right of access via Government Land (GL) is granted to the Site;
- (c) the Site is already being used for the uses under the application. Lots 1090 S.A RP, 1090 S.B and 1109 in D.D. 82 are covered by Short Term Waiver (STW) No. 1644 for Logistic Centre with Ancillary Facilities (Office and Toilet). However, the existing structures erected do not tally with the planning application and exceed the permitted total built-over-area of the planning permission granted on 24.12.2021. Her office reserves the rights to take enforcement action for the breach of STW;
- (d) the following irregularity covered by the planning application have been detected by her office:

unauthorised structures within the said private lots covered by the planning application

there are unauthorised structures on the private lots. The lot owner should immediately rectify the lease breaches and her office reserves the rights to take necessary lease enforcement action against the breaches without further notice;

- (e) the following irregularity not covered by the planning application have been detected by her office:

unlawful occupation of GL not covered by the planning application

the GL adjoining the Site has been fenced off and illegally occupied with unauthorised structure without permission. The GL being illegally occupied is not included in the application. Any occupation of GL without Government's prior approval is an offence under Cap. 28. Her office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice;

- (f) the lot owner shall either (i) remove the unauthorised structures and cease the illegal occupation of the GL not covered by the planning application immediately; or (ii) include the unauthorised structures in the planning application for the further consideration by the relevant departments and, subject to the approval of the Board to the planning application which shall have reflected the rectification or amendment as required, apply to her office for modification for the STW conditions where appropriate. The modification of STW will be considered by the Government in its capacity as a landlord and there is no guarantee that it will be approved. If approved, it will be on whole lot basis and subject to such terms and conditions including the payment of back-dated waiver fee from the first date the structures were erected and administrative fee as considered appropriate by LandsD. In addition, LandsD reserves the right to take enforcement action against the lot owner for any breach of the lease conditions, including the breaches already in existence or to be detected at any point of time in future and land control action for any unlawful occupation of GL. Besides, given the applied use is temporary in nature, only erection of temporary structures will be considered; and
- (g) unless and until the unauthorised structures and the unlawful occupation of GL are duly rectified by the lot owner or entirely included in the application, it should be taken as her office's objection to the application which must be brought to the attention of the Board when they consider the application.

11. Public Comment Received During Statutory Publication Period

On 4.10.2024, the application was published for public inspection. During the statutory public inspection period, one public comment was received from a member of the North District Council indicating no comment on the application (**Appendix VIII**).

12. Planning Considerations and Assessments

- 12.1 The application is for renewal of planning permission for temporary logistics centre with ancillary parking of container vehicles and office for a period of three years and associated filling of land at the Site zoned “AGR” on the OZP. While the applied use 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, DAFC has no strong view against the application for renewal of the planning approval. SDEV also maintains her support from the perspective of ensuring timely development of the NDA and delivery of the housing yield, as well as facilitating the continued operation of the affected brownfield operations. Taking into account the planning assessments below, renewal of planning permission for the applied use on a temporary basis of three years could be tolerated.
- 12.2 According to the applicant, the entire Site has already been filled with concrete of not more than 0.1m in depth for site formation of structures, parking spaces, L/UL bays and circulation area under the previous application and no further filling of land will be carried out at the Site. Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the adjacent areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department (CE/MN, DSD) and Director of Environmental Protection (DEP) have no in-principle objection to the application. An approval condition requiring the reinstatement of the Site to an amenity area is recommended should the Committee decide to approve the application.
- 12.3 The current proposal is the same as the last approved scheme under application No. A/NE-TKL/687 submitted by the same applicant in terms of the applied use, development parameters and layout. The surrounding areas are of rural character comprising mainly open storage yards, temporary structures, a warehouse, agricultural land, vacant land, a hobby farm and domestic structures. The Chief Town Planner/Urban Design and Landscape of Planning Department has no objection to the application from landscape planning perspective and considers that significant adverse impact on the landscape character and existing landscape resources within the Site is not anticipated.
- 12.4 The Site falls within Category 2 (95%) and Category 3 (5%) areas under TPB PG-No. 13G. The following considerations in the Guidelines are relevant:
- Category 2 areas: planning permission could be granted on a temporary basis up to a maximum period of three years, subject to no 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, where appropriate or if required, should be submitted to demonstrate that the proposed uses would not have adverse drainage, traffic, visual, landscaping and environmental impacts on the surrounding areas; and
 - Category 3 areas: applications would normally not be favourably considered unless the applications are on sites with previous planning approvals (irrespective of whether the application is submitted by the applicant of previous approval or a different applicant). Having considered that the open storage and port back-up uses have a role to play in Hong Kong’s economy and provide considerable employment opportunities, and the operators/uses affected by resumption and clearance operations of the Government to make way for developments may face difficulties in finding a replacement site, sympathetic consideration could be given to those applications

meeting the following criteria: (i) policy support is given by the relevant bureau(x) to the application for relocation of the affected uses/operations to the concerned sites; and (ii) no adverse departmental comments and local objections, or the concern could be addressed by approval conditions.

- 12.5 The application generally complies with the TPG PG-No. 13G in that the Site is subject to previous approval for the same applied use and all approval conditions under the approved application (No. A/NE-TKL/687) have been complied with. Relevant departments consulted, including the Commissioner for Transport, DEP, CE/MN, DSD and Director of Fire Services, have no objection to or no adverse comment on the renewal application from traffic, environmental, drainage and fire safety perspectives respectively.
- 12.6 Regarding DLO/N, LandsD's concern on the unauthorised structures erected within the Site and the unlawful occupation of GL, the applicant commits to strictly follow the applied scheme after obtaining planning approval and will apply for relevant approval to rectify the applied use. The applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application.
- 12.7 The application generally complies with the TPB PG-No. 34D in that there has been no material change in planning circumstances since the approval of the last application; all the approval conditions under the last application have been complied with; and the approval period sought which is the same as the last approval granted by the Committee is not unreasonable.
- 12.8 There is one public comment received indicating no comment on the application as mentioned in paragraph 11 above.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11 above, the Planning Department considers that the applied use could be tolerated for a further period of three 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 three years and be renewed from 25.12.2024 until 24.12.2027. The following conditions of approval and advisory clauses are suggested for Members' reference:

Approval Conditions

- (a) the submission of a condition record of the existing drainage facilities on the Site within 3 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 25.3.2025;
- (b) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) the implementation of environmental mitigation measures, as proposed by the applicant, within 9 months from the date of commencement of the renewed planning approval to the satisfaction of the Director of Environmental Protection

or of the Town Planning Board by 25.9.2025;

- (d) if the above planning condition (b) 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;
- (e) if any of the above planning condition (a) or (c) 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
- (f) 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 VII**.

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

the applied use with associated filling of land 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. It is also intended 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 the 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 attachments received on 27.9.2024
Appendix Ia	FI received on 12.11.2024
Appendix II	Relevant Extracts of TPB-PG No. 13G
Appendix III	Relevant Extracts of TPB PG-No. 34D
Appendix IV	Previous Application
Appendix V	Similar Application
Appendix VI	Government Departments' General Comments
Appendix VII	Recommended Advisory Clauses
Appendix VIIa	Mains Record Plans
Appendix VIII	Public Comment

Drawing A-1	Layout Plan
Drawing A-2	Landfilling Plan
Drawing A-3	As-Built Drainage Plan
Drawing A-4	Accepted Run-in/Out Proposal under Last Approved Application No. A/NE-TKL/687
Drawing A-5	Accepted FSI Proposal under Last Approved Application No. A/NE-TKL/687
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2024**