

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/NE-KLH/640

- Applicant** : Hey Hey Firm Limited
- Site** : Government Land (GL) in D.D.16, Wai Tau Tsuen, Kau Lung Hang, Tai Po
- Site Area** : About 2,760m² (including GL of about 2,760m²)
- Land Status** : Unleased GL
- Plan** : Approved Kau Lung Hang Outline Zoning Plan (OZP) No. S/NE-KLH/11
- Zoning** : “Government, Institution or Community” (“G/IC”)
- Application** : Proposed Temporary Dangerous Goods Godown and Industrial Use for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary dangerous goods godown and industrial use for a period of three years. The Site falls within “G/IC” zone on the Kau Lung Hang OZP (**Plans A-1 and A-2**). According to the covering Notes of the OZP, temporary use or development of any land or building not exceeding a period of three years requires planning permission from the Town Planning Board (the Board). The Site is currently vacant, fenced off and covered with vegetation and trees (**Plan A-4**).
- 1.2 According to the applicant’s submission, the proposed use involves a hydrofluorocarbons (HFCs) refrigerant reclamation plant comprising four single-storey (with a height of about 5.5m) temporary structures made of corrugated steel sheets for processing and storing HFCs (as a kind of Category 2 dangerous goods) (**Drawing A-1**). The proposed plant involves multiple processes to purify and reclaim used HFCs refrigerant, viz.(i) removing oil, water and particulate from the used refrigerant to ensure pure ‘oil-less’ vapours; (ii) compressing and boiling the ‘oil-less’ vapours by compressor; and (iii) cooling the ‘oil-less’ vapours to liquid state and removing desiccant and moisture to obtain clean refrigerant. Details of the plant operation are set out at **Appendix Ia**. A total of 12 parking spaces (i.e. four for private cars (5m (L) x 2.5m (W) each) and eight for medium goods vehicles (7m (L) x 3.5m (W) each)) will be provided at the Site. The proposed use will operate from 9:00am to 5:00pm from Mondays to Fridays except for public holidays. The applicant has submitted environmental assessment, and a tree preservation and landscape proposal (**Appendix Ib**) to address departmental comments. Environmental mitigation measures include full enclosure of the plant structures to minimize noise impact, and deploying licensed chemical waste collectors to handle and

dispose chemical wastes. Also, five surveyed trees within the Site will be retained, and appropriate protective measures such as 1.2m high temporary protective fencing surrounding the trees and close monitoring of tree condition during construction stage are proposed. The site layout and vehicular access plans submitted by the applicant are shown in **Drawings A-1** and **A-2** respectively.

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

- (a) Application Form with attachments received on 12.3.2024 (Appendix I)
- (b) FI received on 8.4.2024[^] (Appendix Ia)
- (c) FI received on 17.4.2024[#] (Appendix Ib)

[^] accepted and exempted from publication and recount

[#] accepted but not exempted from publication

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form and FIs at **Appendices I to Ib**, as summarized below:

- (a) the provision of the proposed HFCs refrigerant reclamation plant at the Site is supported by the Environment and Ecology Bureau (EEB). As Mainland China has officially accepted the Kigali Amendment, Hong Kong needs to fulfil the international obligations under the Kigali Amendment to regulate and phase down the production and consumption of HFCs in Hong Kong. The solution is to reclaim and reuse HFCs refrigerants;
- (b) as there is no refrigerant reclamation plant in Hong Kong, the proposed use is essential to put forward the reclamation of used refrigerants. Meetings and detailed discussions about the establishment and operation of the proposed reclamation plant with EEB were held previously; and
- (c) the proposed use will not cause any significant environmental (including air quality, noise and water quality), traffic and landscape impacts.

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

As the Site involves GL only, the “owner’s consent/notification” 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) is not applicable to the application.

4. **Background**

- 4.1 According to the latest Review of Vacant School Premises (VSP) Sites under the Central Clearing House Mechanism in 2023, the Site is formerly occupied by Lam Tsuen Public School and is retained for Government, institution or

community (GIC) use in long run. It is currently open for application for short-term use(s) pending implementation of long-term GIC use(s). Lands Department advises that the applicant has applied to his office for a Short Term Tenancy (STT) by direct grant for the proposed use at the Site.

4.2 The Site is not subject of active planning enforcement action.

5. Previous Application

There is no previous application at the Site.

6. Similar Application

There is no similar application within the same “G/IC” zone in the past five years.

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

7.1 The Site:

- (a) is currently vacant, fenced off and covered with vegetation. Existing trees are observed within the Site;
- (b) is a VSP formerly occupied by Lam Tsuen Public School which has already been abandoned. The existing structures at the Site are generally ruins (**Plans A-2 and A-4a**);
- (c) falls within the upper indirect water gathering grounds (WGGs); and
- (d) is accessible via a local track connecting with Tai Wo Service Road West (**Plan A-2**).

7.2 The surrounding areas are predominantly rural in character comprising clusters of village houses in Wai Tau Tsuen, active/fallow agricultural land, plant nurseries and car parks. The nearest domestic structures are about 5m to the southwest of the Site (**Plan A-2**).

8. Planning Intention

The planning intention of the “G/IC” zone is primarily for the provision of GIC facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments.

9. Comments from Relevant Government Departments

9.1 Apart from the government departments as set out in paragraph 9.2 below, all 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 II** and **III** respectively.

9.2 The following government bureau supports the application:

Policy Aspect

9.2.1 Comments of the Secretary for Environment and Ecology (Environment) (SEE):

- (a) HFCs, which is used as refrigerant in air-conditioning and/or refrigerating system, is a powerful greenhouse gas, contributing to the global warming problem. The Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (the Montreal Protocol) brings HFCs into control and requires parties to phase down the consumption of HFCs. Following the ratification of the Kigali Amendment by the Central People's Government in June 2021, Hong Kong is obliged to phase down HFCs to fulfil its international obligations. For that purpose, the EEB is preparing the necessary legislative amendments to regulate the use of HFCs and implement HFC phase-down initiatives according to the phase-down schedule set out in the Kigali Amendment, with a target to tabling the amendment bill to the Legislative Council in 2024; and
- (b) supports the applicant's proposal for establishing a refrigerant reclamation plant at the Site since it's EEB's policy to drive and support the trade to step up refrigerant recovery and establish refrigerant recycling and reclamation business operation in order to support HFCs phase-down.

9.3 The following government departments do not support the application:

Water Supply

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

- the Site is located within the upper WGGs. As the proposed industrial use is not permitted in WGGs, he objects to the application.

Environment

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

- he considers that the applicant fails to provide sufficient

information to demonstrate that the proposed use would not generate adverse environmental impact on the surroundings, given that the applicant has not submitted the revised environmental assessment within specified period under the Town Planning Ordinance.

Landscape

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

- (a) the Site is located in an area of settled valleys landscape character comprising clusters of village houses, temporary structures, vehicle parks, vegetated areas, tree clusters and Lam Tsuen River to the south; and
- (b) the Site is fenced off and the south-eastern portion of it is covered with grass. Existing tree groups of common species were observed within the Site, including a mature *figus microcarpa* with diameter at breast height (DBH) >800mm in fair condition located at the eastern corner of the Site. According to the applicant's submission, the existing trees and tree groups are in conflict with the proposed layout and structures. Having reviewed the application's submission on tree preservation and landscape proposal, she advises that many inconsistencies and incorrect information are observed from the submission; information on the large tree groups are missing; and no landscape proposal indicating mitigation measures is provided. In view of the above, the impact on existing landscape resources at the Site arising from the proposed use could not be reasonably ascertained.

10. Public Comments Received During Statutory Publication Period

- 10.1 On 19.3.2023 and 30.4.2024, the application was published for public inspection. During the statutory public inspection period, 228 comments were received, including one supportive comment from an individual (**Appendix IVa**); and the remaining 227 objecting comments received from the Chairman, 1st Vice-chairman, 2nd Vice-chairman of Tai Po Rural Committee; Indigenous Inhabitant Representatives (IIR) of Wai Tau Tsuen; Chairman, 1st Vice-chairman, 2nd Vice-chairman of Lam Tsuen Valley Committee and other individuals (**Appendix IVb**). Their major grounds are summarized as follows:

Supporting View (1)

- 10.2 The Site is fairly far away from residential areas.

Objecting Views (227)

- 10.3 The proposed development is too close to residential area which may cause potential risk of fire hazard that would endanger the safety and well-being of nearby residents; the Site falling within "GIC" zone should be reinstated prior

to planning application; the proposed use is not in line with the planning intention of “G/IC” zone; the future use of the Site should be beneficiary to the concerned villagers; air and water pollution to the WGGs; traffic, noise, ecological and environmental impacts; adverse impacts on fire and pedestrian safety; and the proposed use obstructs the major vehicular access of the village and nearby emergency vehicular access (EVA).

11. Planning Considerations and Assessment

- 11.1 This applicant seeks planning permission for proposed temporary dangerous goods godown and industrial use for a period of three years at the Site zoned “G/IC” on the OZP (**Plan A-1**), which is primarily for the provision of GIC facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments. Although SEE supports the proposed use as it is in line with the government policy and directives to drive and support the trade to step up HFCs refrigerant recovery and establish refrigerant recycling and reclamation business operation, the proposed use is not in line with the planning intention of the “G/IC” zone. There is no strong justification in the submission for a departure from the planning intention of “G/IC” zone, even on a temporary basis.
- 11.2 The Site is currently vacant, fenced off and covered with vegetation (**Plan A-4**). It is located in an area which is predominantly rural in character intermixed with clusters of village houses, active/fallow agricultural land and plant nurseries. The nearest domestic structures are about 5m away to the southwest of the Site (**Plans A-2 and A-3**). The proposed industrial development for processing and storing the dangerous goods is considered not compatible with the surrounding land uses. From the applicant’s submission, it is observed that the existing trees and tree groups (**Plan A-4a**) are in conflict with the proposed layout and structures. Having reviewed the applicant’s tree preservation and landscape proposal at **Appendix Ib**, CTP/UD&L, PlanD considers that the impact on existing landscape resources at the Site arising from the proposed use could not be reasonably ascertained.
- 11.3 The Site falls within the upper indirect WGGs. Chief Engineer/Construction, Water Supplies Department (CE/C, WSD) objects to the application. DEP considers that the applicant fails to provide sufficient information to demonstrate that the proposed use would not generate environmental impact to the surroundings. Other relevant departments including the Commissioner for Transport, the Director of Fire Services and the Chief Engineer/Mainland North of Drainage Services Department have no objection to or no adverse comment on the application.
- 11.4 Regarding the objecting public comments as detailed in paragraph 10 above, comments of government departments and the planning assessment 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 comment mentioned in paragraph 10, the Planning Department does not support the proposed use for following reasons:

- (a) the proposed use is not in line with the planning intention of the “Government, Institution or Community” zone which is primarily for the provision of Government, institution or community facilities serving the needs of the local residents and/or a wider district, region or the territory. It is also intended to provide land for uses directly related to or in support of the work of the Government, organizations providing social services to meet community needs, and other institutional establishments. There is no strong planning justification in the submission for a departure from the planning intention, even on a temporary basis;
- (b) the proposed use is considered incompatible with the rural village setting of Wai Tau Tsuen;
- (c) the Site falls within upper indirect Water Gathering Grounds (WGGs). The proposed industrial use is not permitted under WGGs; and
- (d) the applicant fails to demonstrate in the submission that the proposed use would not generate adverse environmental impacts on the surrounding areas.

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 7.6.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 5 6:00 pm. and 9:00 am, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no operation on Saturdays, Sundays and public holidays, as proposed by the applicant, is allowed on the Site during the planning approval period;
- (c) no open storage of dangerous goods are allowed on the Site at any time during the planning approval period;
- (d) only private cars and medium goods vehicles, as defined in the Road Traffic Ordinance is allowed to be parked/stored on or enter/exit the Site at any time, as proposed by the applicant, during the planning approval period;
- (e) 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 7.12.2024;

- (f) in relation to (e) 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 7.3.2025;
- (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 a proposal for water supplies for fire-fighting and fire service installations within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 7.12.2024;
- (i) in relation to (h) above, the provision of water supplies for fire-fighting and fire service installations within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 7.3.2025;
- (j) the submission of a risk assessment report on contamination of Water Gathering Grounds within **6** months from the date of planning approval to the satisfaction of the Director of Water Supplies or of the Town Planning Board by 7.12.2024;
- (k) in relation to condition (j) above, the implementation of mitigation measures identified therein within **9** months from the date of planning approval to the satisfaction of the Director of Water Supplies or of the Town Planning Board by 7.3.2025;
- (l) the submission of a revised environmental assessment within **6** months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 7.12.2024;
- (m) in relation to condition (l) above, the implementation of mitigation measures identified therein 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 7.3.2025;
- (n) the submission of a sewerage impact assessment within **6** months from the date of planning approval to the satisfaction of the Director of Environmental Protection or of the Town Planning Board by 7.12.2024;
- (o) in relation to condition (n) above, the implementation of the local sewerage upgrading/sewerage connection works identified therein within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 7.3.2025;
- (p) the submission of a revised tree preservation and landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 7.12.2024;
- (q) in relation to (p) above, the implementation of the revised tree preservation and landscape proposal within **9** months from the date of

planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 7.3.2025;

- (r) 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; and
- (s) if any of the above planning condition (e), (f), (h), (i), (j), (k), (l), (m), (n), (o), (p) or (q) 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.

Advisory Clauses

The recommended advisory clauses are attached at **Appendix III**.

13. Decision Sought

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

Appendix I	Application form with attachments received on 12.3.2024
Appendix Ia	FI received on 8.4.2024
Appendix Ib	FI received on 17.4.2024
Appendix II	Government departments' general comments
Appendix III	Recommended advisory clauses
Appendix IV	Public comments
Drawing A-1	Site layout plan
Drawing A-2	Vehicular access plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a and 4b	Site photos