

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

APPLICATION NO. A/YL-KTS/779

<u>Applicant</u>	: God Power Association Limited represented by R-riches Property Consultants Limited
<u>Site</u>	: Lots 777 RP & 778 RP, 779 RP and 926 in D.D. 103, Kam Tin, Yuen Long
<u>Site Area</u>	: 3,205.1 m ²
<u>Lease</u>	: Block Government Lease (demised for agricultural use)
<u>Plan</u>	: Draft Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/14
<u>Zoning</u>	: “Agriculture” (“AGR”)
<u>Application</u>	: Proposed Temporary Place of Recreation, Sports or Culture (Hobby Farm) 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 place of recreation, sports or culture (hobby farm) for a period of 3 years (**Plan A-1**). According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Horse Riding School, Hobby Farm, Fishing Ground only)’ is a Column 2 use within the “AGR” zone, which requires planning permission from the Town Planning Board (the Board). The Site is mostly occupied by farmland, with a shed structure and a pond (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site involves two previous applications (No. A/YL-KTS/659 and 697) submitted by different applicants as the current application for proposed temporary hobby farm for a period of 3 years and proposed temporary place of recreation, sports and culture (including barbecue and kiosks) for a period of 3 years respectively. The former was approved by the Rural and New Town Planning Committee (the Committee) on 6.2.2015 but revoked on 6.8.2016 due to

non-compliance of approval conditions. The latter was rejected by the Committee on 18.3.2016.

- 1.3 According to the applicant, about 63% of the Site (2,008.8m²) will be used as farmland. The existing single-storey (3.5m high) shed structure with a floor area of 220m² will be used for agriculture learning centre. Two additional single-storey (2.8m and 3.5m high) structures with a total floor area of 23.4m² will be used for water storage tank for fire service installations (FSIs) and electric meter room. The Site can be accessed via a footpath from Kam Ho Road near the West Rail Kam Sheung Road Station and no parking space will be provided within the Site. Daily operation of the farm including transportation of materials and disposal of waste will be carried out on foot. The proposed hobby farm will operate from 9:00am to 6:00pm daily, including public holidays. The estimated number of visitors on Saturdays, Sundays and public holidays will not be more than 50, on weekdays it will be less than 10. The applicant proposes that no audio amplification system would be installed on-site. The layout plan submitted by the applicant is at **Drawing A-1**.
- 1.4 In support of the application, the applicant has submitted the following documents:
 - (a) Application form with supplementary information received on 9.2.2018 **(Appendix I)**
 - (b) Further Information (FI) received on 16.3.2018 in response to departmental comments **(Appendix Ia)**
(accepted and exempted from publication and recounting requirements)
 - (c) FI received on 19.3.2018 in response to departmental comments **(Appendix Ib)**
(accepted and exempted from publication and recounting requirements)
 - (d) FI received on 23.3.2018 in response to departmental comments **(Appendix Ic)**
(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 supporting planning statement in **Appendix I**. They are summarized as follows:

- (a) The proposed use is compatible with the surrounding area.

- (b) No public announcement system will be installed and no parking space will be provided on-site to minimize the noise and traffic impact on the surrounding area.

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

The applicant is one of the “current land owners” but has complied with the requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under section 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31) by posting site notice and sending notification letter to Kam Tin Rural Committee by registered mail. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is currently not a subject of any active enforcement case. Notwithstanding, if there are suspected unauthorized development (UD) found at the Site, investigation will be conducted. Should there be sufficient evidence to prove that the use is an UD under the Town Planning Ordinance (the Ordinance), appropriate enforcement action will be taken.

5. **Previous Applications**

- 5.1 The Site is the subject of two previous applications (No. A/YL-KTS/659 and 697) submitted by different applicants as the current application for proposed temporary hobby farm for a period of 3 years and proposed temporary place of recreation, sports and culture (including barbecue and kiosks) for a period of 3 years respectively. Details of the applications are summarized in **Appendix II** and the locations of the sites are shown on **Plan A-1**.
- 5.2 Application no. A/YL-KTS/659, covering slightly larger site area, was approved with conditions by the Committee on 6.2.2015 mainly on the considerations that the use was generally in line with the planning intention of the “AGR” zone since the proposed development would involve the use of the site for farming purpose; DAFC had no objection to the application from the agricultural point of view; approval of the application on a temporary basis would not frustrate the long-term planning intention of the “AGR” zone; the proposed development was considered not incompatible with the surrounding areas which were rural in character; in view of the scale and nature the proposed development would unlikely cause significant adverse environmental, traffic or drainage impacts and relevant departments consulted had no adverse comment on the application. The application was revoked on 6.8.2016 due to non-compliance of approval conditions related to submission and implementation of landscape, drainage and fire proposals.

- 5.3 Application no. A/YL-KTS/697 for a barbecue spot and kiosks, covering part of the Site, was rejected by the Committee on 18.3.2016 on the grounds that the proposed development is not in line with the planning intention of “AGR” zone; there is no strong justification for the departure from the planning intention; the applicant failed to demonstrate that the proposed development would not generate adverse environmental impacts on the surrounding areas; and approval of the application would set an undesirable precedent for other similar uses and the cumulative effect of approving such applications would result in general degradation of the rural environment of the area.

6. **Similar Application**

- 6.1 There is a similar application (No. A/YL-KTS/576) within the same “AGR” zone on the Kam Tin South OZP. Details of the application are summarized in **Appendix III** and the location of the application site is shown on **Plan A-1**.
- 6.2 Application No. A/YL-KTS/576 for temporary place for hobby farm, ecological cycling tour and barbecue spot was rejected by the Committee on 21.6.2013 for the reasons that there was no detailed information provided on the design and operation of the development; the applicant failed to demonstrate that the development would not generate adverse environmental, drainage and landscape impacts and approving the application would set an undesirable precedent for similar applications within the “AGR” zone; and the cumulative effect would result in a general degradation of the rural environment and landscape quality of the area.

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

- 7.1 The Site is:
- (a) mostly occupied by farmland with a shed structure and a pond; and
 - (b) accessible via a footpath connecting to Kam Sheung Road near the West Rail Kam Sheung Road Station.
- 7.2 The surrounding areas are rural in character, mainly occupied by residential structures/dwellings, cultivated agricultural land, orchard, hobby farm and vacant/unused land. The hobby farm is suspected unauthorized development subject to enforcement action by the Planning Authority:
- (a) to its immediate north and south are residential structures/dwellings. A watercourse runs along the southern and eastern boundary of the Site;
 - (b) to its west, further north and south are a hobby farm, cultivated agricultural land, an orchard and vacant land; and

- (c) to its east is a footpath and the elevated Tsing Long Highway. To the further east across Tsing Long Highway is Kam Ho Road and the West rail Kam Sheung road Station (**Plan A-1**).

8. Planning Intention

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

9. Comments from Relevant Government Departments

- 9.1 The following Government departments have been consulted and their views on the application are summarised as follows:

Land Administration

- 9.1.1 Comments of the District Lands Officer, Yuen Long, Lands Department (DLO/YL, LandsD):

- (a) The Site comprises ~~an~~ Old Schedule Agricultural 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) Lot 779 RP in D.D. 103 is covered by Short Term Waiver (STW) No. 4228 to permit structures for the purpose of “Temporary Hobby Farm”.
- (c) The Site is accessible to Kam Ho Road via Government Land (GL). His office provides no maintenance work for the GL involved and does not guarantee any right-of-way to the Site.
- (d) The Site falls within Shek Kong Airfield Height Restriction Area (SKAHRA). The height of the proposed structures shall not exceed the relevant airfield height limit within the SKAHRA.
- (e) Should the application be approved, the STW holder(s) will need to apply to his office for modification of the STW conditions to regularize any irregularities (if any) on site. The owner (s) of the lot without STW will need to apply to his office to permit the structures to be erected or regularize any irregularities on site. Such application(s) will be considered by LandsD acting in the

capacity as the landlord or lessor at its sole discretion and there is no guarantee that such application(s) will be approved. If such application(s) is approved, it will be subject to the terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

Traffic

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

Noting that there is no vehicular access nor parking provision in the Site, the traffic generated is minimal and he has no comment on the application.

9.1.3 Comments of the Chief Highway Engineer/NT West, Highways Department (CHE/NTW, HyD):

It is noted that there is no vehicular access to the Site. He has no comment on the application from the highways maintenance point of view.

Environment

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

- (a) Provided that the applicant would minimize any noise from the proposed use such as prohibiting the use of public announcement system, portable loudspeakers or any form of audio amplification system so that it would not cause any environmental nuisance to nearby sensitive receivers, he has no objection to the application from environmental planning perspective.
- (b) The Site falls within the consultation zone of Au Tau Water Treatment Works which is a Potentially Hazardous Installation. He has no objection to the application from chlorine risk point of view.
- (c) The applicant is also advised to follow the relevant mitigation measures and requirements in the latest "Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites" issued by DEP to minimize any potential environmental nuisance.
- (d) The applicant should be reminded that it is the obligation of the applicant to meet the statutory requirements under relevant

pollution control ordinances and provide necessary mitigation measures to prevent polluting the watercourse adjacent to the Site. Adequate supporting infrastructure including waste / wastewater collection and disposal facilities for the proper collection, treatment and disposal of waste / wastewater generated from the proposed use. If septic tank and soakaway system will be used, its design and construction shall follow the requirements of Environmental Protection Department (EPD)'s Practice Note for Professional Person (ProPECC) PN 5/93 "Drainage Plans subject to Comment by the EPD".

Food and Environmental Hygiene

9.1.5 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) He has no comment on the application.
- (b) His detailed comment is in **Appendix IV**.

Landscape

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

- (a) He has some reservations on the application from the landscape planning point of view.
- (b) The Site is the subject of two previous applications (No. A/YL-KTS/659 and 697) for similar use on which he had some reservations on both applications from landscape planning perspective. The surrounding area is in rural village character occupied by active farmland, village houses and tree groups. Similar temporary use cannot be found in the proximity of the Site. In general, the proposed use is not incompatible with the rural village setting.
- (c) Based on the aerial photo on 30.6.2013, the Site is mostly vegetated with shrubs and scattered trees. Yet, according to the site inspection taken on 2.3.2018, a large portion of the Site has already been cleared with a portion of existing trees left and a pond is found at the south of the Site. It is apparent that the then existing vegetation cover has been removed after 30.6.2013. The proposed development, if approved, would encourage similar site

modification prior to application, thus resulting in piecemeal developments destroying the tranquil nature of the rural area.

- (d) Should the application is approved, the submission and implementation of landscape and tree preservation proposal to the satisfaction of the Director of Planning or of the Board should be included in the planning approval.

Agriculture

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

- (a) As it is noted that substantial portion of the Site will be retained for cultivation purpose, he has no strong view against the application from agriculture point of view.
- (b) There is a watercourse to the south of the Site. Should the application be approved, the applicant is advised to avoid affecting the watercourse and its riparian vegetation.

Drainage

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

- (a) He has no in principle objection to the proposed development.
- (b) Should the application be approved, approval conditions requiring the submission of drainage proposal to protect the existing watercourses abutting the proposed development and to intercept and convey the overland flow at/cross the Site and implementation and maintenance of the drainage proposal for the development to the satisfaction of the Director of Drainage Services or of the Board should be included in the planning approval.

Building Matters

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

- (a) If the existing structures are erected on leased land without approval of his department (not being a New Territories

Exempted House), they are unauthorized under the Buildings Ordinance (BO) and should not be designated for any approved use under the application.

- (b) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, the prior approval and consent of the BD should be obtained, otherwise they are Unauthorized Building Works (UBW). An Authorized Person (AP) should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (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) The Site shall be provided with means of obtaining access thereto from a street and emergency vehicular access in accordance with Regulations 5 and 41D of the Building (Planning) Regulations B(P)R respectively.
- (e) 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 B(P)R at the building plan submission stage.

Fire Safety

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

- (a) He has no in-principle objection to the proposal subject to fire service installations (FSIs) being provided to his satisfaction.
- (b) In consideration of the design/nature of the proposal, FSIs are anticipated to be required. Therefore, the applicant is advised to submit relevant layout plans incorporated with the proposed FSIs to his department for approval. The layout plan 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.
- (c) The applicant is reminded that if the proposed structure(s) is required to comply with BO (Cap.123), detailed fire service

requirements will be formulated upon receipt of formal submission of general building plans.

Electricity

9.1.11 Comments of the Director of Electrical and Mechanical Services (DEMS):

He has no particular comment on the application from electricity supply safety aspect. However, in the interests of public safety and ensuring the continuity of electricity supply, the parties concerned with planning, designing, organizing and supervising any activity near the underground cable or overhead line under the application should approach the electricity supplier (i.e. CLP Power) for the requisition of cable plans (and overhead line alignment drawings, where applicable) to find out whether there is any underground cable and/or overhead line within and/or in the vicinity of the Site. They should also be reminded to observe the Electricity Supply Lines (Protection) Regulation and the “Code of Practice on Working near Electricity Supply Lines” established under the Regulation when carrying out works in the vicinity of the electricity supply lines.

District Officer’s Comments

9.1.12 Comments of the District Officer (Yuen Long), Home Affairs Department (DO(YL), HAD):

His office has not received any comment from the locals.

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

- (a) Project Manager (West), Civil Engineering and Development Department (PM/W, CEDD);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD); and
- (c) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Period

On 23.2.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 16.3.2018, three public comments from Kadoorie Farm and Botanic Garden Corporation, the land stakeholders, a member of the public (**Appendices V-1 to V-3**) were received objecting to the

application mainly on the grounds that the applicant is not the lot owner or stakeholder and the application was not agreed by other stakeholders; all the trees and facilities on site are owned by the stakeholders and should not be removed or damaged; the Site is not suitable for the proposed use; the facilities provided on site may cause safety issues to the visitors; part of the Site was subject to ‘destroy to build’ activity and rejected planning application; there is no provision for parking; the proposed development is not entirely compatible with the tranquil characters of the surrounding area; no information to demonstrate the proposed development would not generate environmental nuisance; and the applicant has not submitted other plans, drawings or reports to support the application.

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years at a site zoned “AGR” on the OZP. The planning intention of the “AGR” zone is 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. According to the applicant, about 63 % of the Site will be occupied by farmland. The proposed use is generally not in conflict with the planning intention of the “AGR” zone and DAFC has no strong view to the application from the agricultural point of view. It is considered that approval of the application on a temporary basis for a period of 3 years would not frustrate the long-term planning intention of the “AGR” zone.
- 11.2 The proposed hobby farm is considered not incompatible with the surrounding areas which are rural in character, mainly occupied by residential structures/dwellings, cultivated agricultural land, orchard, hobby farm and vacant/unused land.
- 11.3 According to the applicant, there will be a maximum of 50 visitors and they will access to the Site via a footpath connecting to West Rail Kam Sheung Road Station. No parking space will be provided on-site. The applicant also advised that no audio amplification system will be used at the Site. In view of the nature of the proposed hobby farm, it would unlikely cause significant adverse environmental, traffic or drainage impacts and relevant departments consulted including C for T, CE/MN of DSD, CE/C of WSD and D of FS have no adverse comment on the application. CTP/UD&L of PlanD has some reservations on the application as approval of the application would encourage site modification prior to application, resulting in piecemeal development destroying the tranquil nature of the area. In this regard, approval conditions on submission and implementation of landscape and tree preservation proposal as requested by CTP/UD&L of PlanD are recommended in paragraph 12.2 (c) and (d) below. To minimize any possible environmental nuisance, approval conditions restricting the operation hours and restriction on the use of public announcement system, portable loudspeaker or audio amplification system at the Site are recommended in paragraph 12.2(a) and

(b) below. Any non-compliance with the approval conditions will result in revocation of the planning permission and unauthorized development on-site will be subject to enforcement action by the Planning Authority. The applicant will also be advised to follow the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” issued by DEP in order to minimize any potential environmental impact. Technical requests of CE/MN of DSD and D of FS could be addressed by approval conditions in paragraph 12.2 (e) to (i).

- 11.4 The Site is subject to a previous application for temporary hobby farm (No. A/YL-KTS/659) which was approved with conditions by the Committee on 6.2.2015. However, the application was revoked on 6.8.2016 due to non-compliance of approval conditions. The Site is also subject to another application No. A/YL-KTS/697 for temporary place of recreation, sports or culture (including barbecue and kiosks) rejected by the Committee on 18.3.2016. There is also one similar application No. A/YL-KTS/576 for temporary place for hobby farm, ecological cycling tour and barbecue spot within the same “AGR” zone rejected by the Committee on 21.6.2013. These rejected applications are different from the current application in terms of the proposed uses as they involved recreational uses such as barbecue and cycling tour.
- 11.5 Three objecting comments were received mainly on the grounds as mentioned in paragraph 10 above. Regarding the issue related to land matter, an advisory clause is recommended to advise the applicant to resolve land issue with the concerned land owners. Also, the planning considerations and assessments as stated above are relevant.

12. Planning Department’s Views

- 12.1 Based on the assessments made in paragraph 11 and having taking into account the public comments in paragraph 10, the Planning Department considers that proposed temporary place of recreation, sports or culture (hobby farm) could be tolerated for a period of 3 years.
- 12.2 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 6.4.2021. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval Conditions

- (a) no operation between 6:00 p.m. to 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;

- (b) no public announcement system, portable loudspeaker or audio amplification system is allowed to be used on the Site during the planning approval period;
- (c) the submission of landscape and tree preservation 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 6.10.2018;
- (d) in relation to (c) above, the implementation of landscape and tree preservation 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 6.1.2019;
- (e) the submission of drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.10.2018;
- (f) in relation to (e) above, the implementation of drainage proposal within **9** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.1.2019;
- (g) in relation to (f) above, the implemented drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (h) the submission of fire service installation 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 6.10.2018;
- (i) in relation to (h) above, the provision of 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 6.1.2019;
- (j) if any of the above planning conditions (a), (b) or (g) is not complied with during the planning approval period, the approval hereby given shall cease to have effect and shall be revoked immediately without further notice;
- (k) if any of the above planning conditions (c), (d), (e), (f), (h) or (i) is not complied with by the specified date, the approval hereby given shall cease to have effect and shall on the same date be revoked without further notice; and
- (l) upon the 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**.

- 12.3 Alternatively, should the Committee decide to reject the application, the following reasons for rejection are suggested for Members' reference:
- (a) the proposed development is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. No strong planning justification has been given in the submission for a departure from the planning intention, even on a temporary basis; and
 - (b) approving the application would set an undesirable precedent for similar applications within the "AGR" zone, and the cumulative effect of which would result in a general degradation of the rural environment of the area.

13. Decision Sought

- 13.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 13.2 Should the Committee decide to 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.
- 13.3 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.

14. Attachments

Appendix I	Application form with supplementary information received on 9.2.2018
Appendix Ia	FI received on 16.3.2018 in response to departmental comments
Appendix Ib	FI received on 19.3.2018 in response to departmental comments
Appendix Ic	FI received on 23.3.2018 in response to departmental comments

Appendix II	Previous applications
Appendix III	Similar application within the same “AGR” zone on the Kam Tin South OZP
Appendix IV	Detailed comment of DFEH
Appendices V-1 to V-3	Public comments received during the statutory publication period
Appendix VI	Advisory Clauses
Drawing A-1	Layout Plan
Drawing A-2	Location Plan showing pedestrian access
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a and A-4b	Site Photos

**PLANNING DEPARTMENT
APRIL 2018**