

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/981

<u>Applicant</u>	:	Go Green (Hong Kong) Limited
<u>Site</u>	:	Lot 760 RP, 762 RP, 795 RP, 797 RP, 799, 800, 801, 802, 803 in D.D. 103 & Adjoining Government Land, Sze Pai Shek, Kam Tin, Yuen Long
<u>Site Area</u>	:	About 12,110m ² (including Government land (GL) of about 220m ² (1.8%))
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	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 proposed temporary place of recreation, sports or culture (hobby farm) for a period of 3 years. The Site falls within an area zoned “AGR” on the Kam Tin South OZP. **(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 under “AGR” zone which requires planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with valid planning permission under application No. A/YL-KTS/871 **(Plans A-2 to A-4b)**.
- 1.2 According to the applicant, the applied use involves the erection of 34 one-storey temporary structures with building height not more than 3.5m and a total floor area of about 1,150.32m², including 1 ancillary office, 13 restrooms/storerooms, 6 tents, 4 animal homes and 10 portable toilets. About 75% of the Site will be used for farming purpose. The Site is accessible from Kam Ho Road via a footpath. No private car parking space and loading/unloading will be provided within the Site. The proposed operation hours will be from 10:00a.m. to 6:00p.m. daily including public holidays. The applicant estimates that a maximum of 50 visitors will visit the Site during weekends and a maximum of 10 visitors during weekdays. No

public announcement system will be used at the Site. The site layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is involved in 2 previous applications for temporary hobby farm uses (details at paragraph 5 below). The last application No. A/YL-KTS/871 submitted by the same applicant for temporary hobby farm for a period of 3 years was approved with conditions by the Rural and New Town Planning Committee (the Committee) on 5.2.2021. A comparison of the major development parameters of the previous application No. A/YL-KTS/871 and the current application is summarised below:

Parameters	Previous Application No. A/YL-KTS/871 (a)	Current Application No. A/YL- KTS/981 (b)	Difference (b) – (a)
Site Area	About 13,485m ²	About 12,110m ²	-1,375m ² (-10.2%)
Total Floor Area	About 1,319m ²	About 1,150.32m ²	-168.68m ² (-12.8%)
No. of Structures	39 (for ancillary office, storerooms, rooms/sheds for seminar/ briefing/ green house, animal houses, farmer/ caretaker/ visitor resting place)	34 (for ancillary office, restrooms/storerooms, tents, animal homes and portable toilets)	-5 (-12.8%)
Building Height	1 storey / Not more than 3.5m	1 storey / Not more than 3.5m	No Change
Parking Spaces/ L/UL Spaces	0	0	No Change

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

- (a) Application form with supplementary information received on 8.11.2023 and 16.11.2023 **(Appendix I)**
- (b) Further Information (FI) received on 12.12.2023* **(Appendix Ia)**
- (c) FI received on 14.12.2023* **(Appendix Ib)**

**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, supplementary information and FIs in **Appendices I to Ib**. They can be summarised as follows:

- (a) The applied use is temporary in nature which will not jeopardise the long-term planning intention of the “AGR” zone. The current application is the subject of a previous approval. As the land owner takes back part of the original site, the current submission involves a change in site area/boundary, layout and parameters.
- (b) The development provides a place for environmental education. It promotes green living, organic agricultural activities and green lifestyle, and improves environmental quality of the local community.
- (c) The applied use would not generate adverse environmental, traffic and drainage impacts on the surrounding areas.
- (d) The applicant partners with different NGOs, schools and organizations to organize educational tours. Organic farming method is employed at the Site. The Agriculture, Fisheries and Conservation Department (AFCD) has issued a Farmer Identity Certificate to the operator and the hobby farm is supported by AFCD’s Organic Farmer Support Service and under AFCD’s Leisure Farm Category. Support letters from university professor and NGO were received to support the applied use.
- (e) The applicant will strictly follow the requirements by Lands Department including application for short term waiver (STW) should the current application be approved.

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

The applicant is not the “current land owner” of the private land portion of the Site 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 publishing notices in local newspapers and sending notification to the Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection. For the GL portion, the “Owner’s Consent/Notification” Requirement is not applicable.

4. Background

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

5. Previous Applications

- 5.1 The Site is the subject of two previous applications (No. A/YL-KTS/810 and 871) covering larger site areas for temporary place of recreation, sports or culture (hobby farm) which were approved with conditions by the Committee in 2019 and 2021 respectively mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term planning intention; the development was not incompatible with the surrounding land uses; relevant departments consulted in general had no objection and/or their technical concerns could be addressed by appropriate approval conditions. The planning permission for A/YL-KTS/810 was revoked due to non-compliance with planning conditions.

5.2 Both the last approved Application No. A/YL-KTS/871 and the current application are submitted by the same applicant. All the approval conditions of Application No. A/YL-KTS/871 have been complied with and the planning permission is valid until 5.2.2024.

5.3 Details of the previous applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

6. Similar Applications

6.1 There are 4 similar applications for temporary place of recreation, sports or culture (hobby farm) within the same “AGR” zone in the vicinity of the Site in the past 5 years. All the applications were approved with conditions by the Committee from April 2018 to October 2020 on similar considerations mentioned in para. 5.1 above.

6.2 Details of the applications are summarised in **Appendix II** and the locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) currently used for the applied use with valid planning permission under application No. A/YL-KTS/871; and
- (b) accessible from Kam Ho Road via a footpath.

7.2 The surrounding area is rural in character intermixed with residential structures/dwellings, cultivated and fallow agricultural land, an orchard, hobby farms, plant nursery and vacant/unused land.

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 Apart from the government department as set out in paragraph 9.2 below, other 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 in **Appendices III** and **IV** respectively.

9.2 The following government department has adverse comments on the application:

Land Administration

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

- (a) LandsD has adverse comments on the application;
- (b) the Site comprises GL and 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. No permission is given for occupation GL (about 220m² subject to verification) included in the Site. Any occupation of GL without Government's prior approval is not allowed; and
- (c) LandsD has grave concerns given that there are unauthorised building works (UBWs) and/or uses on private lots which are already subject to lease enforcement actions according to case priority. The lot owner(s) should remedy the lease breaches as demanded by LandsD.

10. Public Comment Received During Statutory Publication Period

During the statutory publication period, one public comment was received from an individual raising concerns mainly on whether the approval conditions of the previous application have been complied with.

11. Planning Considerations and Assessments

11.1 The application is for temporary place of recreation, sports or culture (hobby farm) for a period of 3 years at the Site zoned "AGR". The planning intention of the "AGR" zone is 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. According to the applicant, about 75% of the Site will be used for farming purpose (**Appendix Ia**). The proposed use is generally not in conflict with the planning intention of the "AGR" zone. The Director of Agriculture, Fisheries and Conservation has no strong view on the application from agricultural point of view. Taking into account the planning assessments below, the applied use on a temporary basis for a period of 3 years could be tolerated.

11.2 The applied use is considered not incompatible with the surrounding land uses which are rural in character intermixed with farmland, residential structures/dwellings, hobby farms and vacant land. The Chief Town Planner/Urban Design and Landscape of the Planning Department (CTP/UD&L of PlanD) considers that significant adverse landscape impact arising from the applied use is not anticipated and has no objection to the application.

- 11.3 Other relevant departments consulted, including the Director of Environmental Protection (DEP), Commissioner for Transport, and Director of Fire Services, have no objection or no adverse comment on the application. To address the technical requirements of concerned government departments, appropriate approval conditions are recommended in paragraph 12.2 below. Should the application be approved, the applicant will also be advised to follow the revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' issued by DEP to minimise any potential environmental nuisance.
- 11.4 DLO/YL of LandsD has adverse comments on the application in view of the existing UBWs at the Site. In this regard, the applicant states that he will strictly follow the requirements by LandsD including STW application. Relevant advisory clause on need for application to LandsD for regularisation for UBWs is recommended.
- 11.5 There are 2 approved previous applications for temporary hobby farm. In addition, there are 4 approved similar applications for the same applied use, within the same "AGR" zone in the vicinity of the Site as mentioned in paragraph 6.1. Approving the current application is in line with the Committee's previous decisions.
- 11.6 Regarding the public comment raising concerns on the application as stated in paragraph 10 above, the departmental comments and planning considerations 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 above, the Planning Department considers that the applied use 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 22.12.2026. The following approval conditions and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no public announcement system, portable loudspeaker or any form of audio amplification system and whistle blowing is allowed to be used on the site during the planning approval period;
- (b) the implementation of the accepted 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 22.9.2024;
- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (d) the submission of a fire service installations proposal within **6** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 22.6.2024;

- (e) in relation to (d) above, the implementation of the fire service installations proposal within **9** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 22.9.2024;
- (f) if any of the above planning condition (a) or (c) 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;
- (g) if any of the above planning condition (b), (d) or (e) 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 the Director of Planning or of the TPB.

Advisory clauses

The recommended advisory clauses are attached in **Appendix IV**.

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

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 and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purpose. No strong planning justification has been given in the submission for a departure from the planning intentions even on a temporary basis.

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 8.11.2023 and 16.11.2023

Appendix Ia	FI received on 12.12.2023
Appendix Ib	FI received on 14.12.2023
Appendix II	Previous and similar applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comment
Drawing A-1	Site layout plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4a & 4b	Site photos

**PLANNING DEPARTMENT
DECEMBER 2023**