

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

APPLICATION NO. A/NE-PK/206

<u>Applicant</u>	: Green Culture Generation Limited
<u>Site</u>	: Lots 2120, 2122 S.A and 2122 S.B in D.D. 91 and adjoining Government Land (GL), Ping Kong, Sheung Shui, New Territories
<u>Site Area</u>	: About 9,012m ² (including about 3,914 m ² of GL)
<u>Lease / Land Status</u>	: (a) Block Government Lease (demised for agricultural use) (about 56.6% of the Site) (b) GL (about 43.4% of the Site)
<u>Plan</u>	: Approved Ping Kong Outline Zoning Plan (OZP) No. S/NE-PK/11
<u>Zonings</u>	: “Agriculture” (“AGR”) (about 85.5% of the Site) “Green Belt” (“GB”) (about 14.5% of the Site)
<u>Application</u>	: Renewal of Planning Approval for Temporary Place of Recreation, Sports or Culture (Hobby Farm and Ancillary Barbecue Site) for a Period of Three Years

1. The Proposal

- 1.1 The applicant seeks renewal of planning permission to continue using the application site (the Site) for temporary place of recreation, sports or culture (hobby farm and ancillary barbecue site) for a further period of three years (**Plan A-1**). The Site falls within an area largely zoned “AGR” (about 85.5%) with a portion zoned “GB” (about 14.5%) on the OZP. According to the Notes of the OZP, ‘Place of Recreation, Sports or Culture (Horse Riding School, Hobby Farm, Fishing Ground only)’ under “AGR” zone and ‘Place of Recreation, Sports or Culture’ under “GB” zone are Column 2 uses, which require planning permission from the Town Planning Board (the Board). The Site is currently used for the applied use with a valid planning permission granted under Application No. A/NE-PK/148 until 15.10.2024.
- 1.2 The Site is accessible from Fan Kam Road via a local track (**Plan A-1**). The applied use comprises farm areas, grassland and 28 structures with a total floor area of 1,147.5m² for livestock sheds, barbecue sites, activity rooms, shelters, kiosk, store rooms, office/staff quarters and toilet uses (**Drawing A-1**). Among these structures, 27 structures are one storey in height while one structure (i.e. office/staff quarters) is of two storeys (not exceeding 4.1m in height). About 70% of the site area is used for cultivation and rearing of livestock, with only about 0.98% (about 88m²) for barbecue

areas. The operation hours are between 10:00 a.m. and 5:00 p.m. daily (holding maximum 400 visitors daily), and the evening barbecue session is available between 3:00 p.m. and 10:30 p.m. on weekends and public holidays. The applicant will deploy traffic wardens to direct traffic along the local track to the Site. The layout plan submitted by the applicant is at **Drawing A-1**.

- 1.3 The Site is the subject of three previous applications (No. A/NE-PK/121, 134 and 148) for the same use submitted by the same applicant. The latest one (No. A/NE-PK/148) was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Board on 15.10.2021 for a period of three years up to 15.10.2024. Compared with the last previous application No. A/NE-PK/148, the site layout and key development parameters under the current application remain unchanged. All the approval conditions under the last previous application had been complied with. Details of the previous applications are set out in paragraph 6 below.
- 1.4 In support of the application, the applicant has submitted the Application Form with attachments (**Appendix I**) received on 8.8.2024.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form at **Appendix I**, as summarized below:

- (a) the hobby farm provides various recreational activities, including nature education seminars/workshops and farming experiences, to the visitors;
- (b) the site layout and key development parameters under the current application is the same as the last previous application (No. A/NE-PK/148). All the approval conditions under the last previous application had been complied with; and
- (c) the hobby farm only accepts prior booking by one organization each day and visitors have to reach there by coach. Traffic generation/attraction is restricted to non-peak hours (10:00 a.m. to 3:00 p.m.) from Mondays to Fridays. The applicant will deploy traffic wardens to direct traffic along the local track to the Site to ensure smooth traffic and pedestrian safety.

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

The applicant is not the “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 publishing notices in local newspapers. For GL within the Site, the TPB PG-No. 31B is not applicable. Detailed information would be deposited at the meeting for Members’ inspection.

4. Town Planning Board Guidelines

- 4.1 Part of the Site falls within “GB” zone. The Town Planning Board Guidelines No. 10 for Application for Development within “GB” zone under section 16 of the Town Planning Ordinance (TPB PG-No. 10) is relevant to this application. The relevant assessment criteria are at **Appendix II**.
- 4.2 The Town Planning Board Guidelines No. 34D on Renewal of Planning Approval and Extension of Time for Compliance with Planning Conditions for Temporary Use or Development (TPB-PG No. 34D) is relevant to this application. The relevant assessment criteria are at **Appendix III**.

5. Background

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

6. Previous Applications

- 6.1 The Site is the subject of three previous applications (No. A/NE-PK/121, 134 and 148) for the same use submitted by the same applicant. Application No. A/NE-PK/121 with a larger site area was rejected by the Committee on 17.8.2018 mainly on the considerations that the proposed coach and car parking areas in the development were not in line with the planning intention of “GB” zone and the TPB PG-No. 10 as they would affect the existing natural landscape; and approval of the application would set an undesirable precedent for similar applications within the “GB” zone.
- 6.2 Application No. A/NE-PK/134 with a reduced site area and no proposal of coach and car parking areas was approved with conditions by the Committee on 1.2.2019 for a period of three years up to 1.2.2022. However, the application was revoked on 1.3.2021 due to non-compliance with the approval condition regarding the implementation of fire service installations (FSIs) proposal. Application No. A/NE-PK/148 was approved with conditions by the Committee on 15.10.2021 for a period of three years up to 15.10.2024. Compared with the last previous application, the key development parameters and layout plan of the current application remain unchanged. All the approval conditions under the last previous application had been complied with.
- 6.3 Details of the previous applications are summarized at **Appendix IV** and their locations are shown on **Plans A-1** and **A-2**.

7. Similar Application

There is no similar application for ‘place of recreation, sports or culture (hobby farm and ancillary barbecue site)’ use within the same “AGR” and “GB” zones in the vicinity of the Site in the past five years.

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

8.1 The Site is:

- (a) currently occupied by the applied use with a valid planning permission; and
- (b) accessible from Fan Kam Road via a local track.

8.2 The surrounding areas are predominantly rural in landscape character with active/fallow agricultural land, vacant land, temporary structures for domestic and storage purposes, grazing land and scattered tree groups (**Plans A-2 and A-3**).

9. Planning Intentions

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 The planning intention of the “GB” zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

10. Comments from Relevant Government Departments

10.1 Apart from the government department as set out in paragraph 10.2 below, other government departments consulted have no objection to or no adverse comments on the application. Their general comments on the application and the recommended advisory clauses are provided at **Appendices V and VI** respectively.

10.2 The following government department objects to the application:

Land Administration

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

- (a) the Site comprises 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 right of access via GL is granted to the Site.
- (b) lots no. 2122 in DD. 91 is an Old Schedule Lot with an area of 0.69 acre recorded in Block Government Lease. According to the Land Registry, Section A (0.07 acre) was carved out in 1913 and was surrendered to the Government in 1916. However, there was no plan attached to the Deed of Surrender and the boundary of Section A and Section B was uncertain. The applicant should provide lot boundary details to substantiate the application on the Site;

- (c) the Site is already being used for the uses under the application. The structures erected and the actual occupation area are greater than the proposed layout plan of this application and same situation happened in the last s.16 application. Same comments had been given in last planning application in June 2021. The unauthorized structures and large portion of illegal occupation of GL had already been stated in last planning application in June 2021, however, no rectification had been carried out even with repeated requests since 2021 to 2023;
- (d) despite the erection of Unauthorised Building Works (UBWs) and extensive illegal occupation of GL (approx. 3,914m²) covered by last previously approved planning permission in 2021, no Short Term Tenancy (STT) application was submitted by the lot owner and no Short Term Waiver (STW) is now under processing. Illegal occupation and UBWs persisted without rectification. It is obvious that the applicant did not have genuine intention to apply for STW and STT;
- (e) there are unauthorised structures on the private lots. The lot owners should immediately rectify/regularize the lease breaches and her office reserves the rights to take necessary lease enforcement action against the breaches without further notice;
- (f) the GL within the Site (about 3,914m² as mentioned in the application form) has been illegally occupied with unauthorised structures without any permission. Any occupation of GL without Government's prior approval is an offence under Cap. 28. The extensive illegal occupation of GL had been advised to you since last planning application in 2021. LandsD objects to the planning application since there is illegal occupation of GL which regularization would not be considered according to the prevailing land policy. The lot owners/applicant should immediately cease the illegal occupation of GL and remove the unauthorised structures as demanded by LandsD. This office reserves the rights to take necessary land control action against the illegal occupation of GL without further notice; and
- (g) her advisory comments are set out at **Appendix VI**.

11. Public Comments Received During Statutory Publication Period

On 16.8.2024, the application was published for public inspection. During the statutory public inspection period, two public comments from individuals were received. One comment considers that the applicant should provide more information on fulfilling the approval condition related to the provision of FSIs and queries why there is a large filled area with parking space (**Appendix VIIa**). The remaining one indicates no comment on the application (**Appendix VIIb**).

12. Planning Considerations and Assessment

12.1 The application is for renewal of planning permission of temporary place of recreation, sports or culture (hobby farm and ancillary barbecue site) for a further period of three years at the Site, which falls mainly within "AGR" zone (about 85.5%) with a portion

within “GB” zone (about 14.5%) on the OZP (**Plan A-1**). The applied use is not entirely 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 purposes. It is also not in line with the planning intention of “GB” zone which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. Given it is temporary in nature and only a minor portion of the Site (about 14.5%) falls within the “GB” zone (**Plan A-2**), it is considered that the approval of the application on a temporary basis for a period of three years would not frustrate the long-term planning intention of the “AGR” and “GB” zones. The Director of Agriculture, Fisheries and Conservation has no strong view against the application from agricultural and nature conservation perspectives, considering that the previous application for the same use on the Site was approved.

- 12.2 The Site is located in an area of settled valleys landscape character predominated by active/fallow agricultural land, temporary structures for domestic and storage purposes and tree groups (**Plan A-2**). The applied use is considered not incompatible with the surrounding land uses. The Chief Town Planner/Urban Design and Landscape of Planning Department has no objection to the application as further significant adverse impact on existing landscape resources is not anticipated. The applicant is advised to preserve the existing trees within the Site, particularly the two trees of particular interest (i.e. *Aquilaria sinensis* 土沉香) identified within the Site.
- 12.3 According to the applicant, the operation hours of the hobby farm are between 10:00 a.m. and 5:00 p.m. daily and evening barbeque session is available between 3:00 p.m and 10:30 p.m on weekends and public holidays. The hobby farm will accept booking by only one organization each day and visitors should reach there by coach. The Commissioner for Transport has no comment on the application from the traffic engineering viewpoint. While DLO/N, LandsD objects to the application as there are unauthorized structures found on the private lots concerned and unlawful occupation of GL within the Site and its adjoining areas, the applicant is reminded to apply for STW for the private lots concerned and immediately cease the illegal occupation of GL and remove the unauthorized structures should the application be approved. The applicant will be advised to liaise with LandsD to deal with the land matters separately under the land administration regime. Other relevant government departments consulted including the Director of Environmental Protection, Chief Engineer/Mainland North of Drainage Services Department and Director of Fire Services have no adverse comment on or no objection to the application.
- 12.4 The application is generally in line with the relevant criteria of the TPB PG-No.10 in that the applied use is not incompatible with the surrounding land uses and does not involve clearance of existing natural vegetation nor affect the existing natural landscape. No significant adverse impacts on the geotechnical, environmental, drainage and traffic aspects are anticipated from the applied use.
- 12.5 The Site is the subject of three previous applications (No. A/NE-PK/121, 134 and 148) for the same use submitted by the same applicant, each for a period of three years as detailed in paragraph 6. The last previous Application No. A/NE-PK/148 was approved with conditions by the Committee for a period of three years up to 15.10.2024. Compared with this last previous application, the site layout and key development

parameters under the current application remain unchanged. All the approval conditions under the last previous application had been complied with. There is no major change in planning circumstances since the approval of the previous application.

- 12.6 In view of the above, the application generally complies with TPB PG-No. 34D in that there has been no material change in planning circumstances since the previous approval granted under Application No. A/NE-PK/148; no major adverse departmental comments on the renewal application; all approval conditions under the previous approval had been complied with; and the three-year approval period sought is the same as the previous approval and is considered reasonable.
- 12.7 Regarding the public comments as detailed in paragraph 11, government departments' comments and the planning assessments above are relevant.

13. Planning Department's Views

- 13.1 Based on the assessments made in paragraph 12 and taking into account the public comments mentioned in paragraph 11, the Planning Department has no objection to the application 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 16.10.2024 until 15.10.2027. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) the existing drainage facilities on the site should be maintained at all times during the planning approval period;
- (b) the submission of a 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 16.1.2025;
- (c) the existing fire service installations implemented on the site shall be maintained at all times during the planning approval period;
- (d) 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;
- (e) if the above planning condition (b) 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 Director of Planning or of the Town Planning Board.

Advisory Clauses

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

13.3 There is no strong reason to recommend rejection of the application.

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 8.8.2024
Appendix II	Relevant Extracts of TPB-PG No. 10
Appendix III	Relevant Extracts of TPB-PG No. 34D
Appendix IV	Previous Applications
Appendix V	Government Departments' General Comments
Appendix VI	Recommended Advisory Clauses
Appendix VII	Public Comments
Drawing A-1	Layout Plan Submitted by the Applicant
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4b	Site Photos

**PLANNING DEPARTMENT
OCTOBER 2024**