

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1050

- Applicant** : Queen Million Investments Limited represented by PlanPlus Consultancy Limited
- Site** : Lot 2611 S.A (Part) in D.D. 124 and Adjoining Government Land (GL), Tan Kwai Tsuen, Yuen Long, New Territories
- Site Area** : 1,445 m² (about) (including about 310 m² of GL (about 21.5%))
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/13
- Zonings** : “Residential (Group D)” (“R(D)”) (about 79.7%)
[Restricted to a maximum plot ratio (PR) of 0.2 and maximum building height (BH) of 2 storeys (6m)]
- “Residential (Group B)1” (“R(B)1”) (about 19.6%)
[Restricted to a maximum PR of 1, maximum site coverage of 40% and maximum BH of 4 storeys over single-storey car park (15m)]
- “Government, Institution or Community” (“G/IC”) (about 0.7%)
- Application** : Proposed Temporary Place of Recreation, Sports or Culture (Indoor Recreation Centre) 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 (indoor recreation centre) for a period of 3 years (**Plan A-1a**). According to the Notes of the OZP for the “R(D)” and “R(B)1” zones, ‘Place of Recreation, Sports or Culture’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently paved and largely occupied by a vacant warehouse structure (**Plans A-2 and A-4**).
- 1.2 The Site involves two previous applications (No. A/YL-TYST/701 and 918) for warehouse and shop and services uses which were rejected by the Rural and New

Town Planning Committee (the Committee) of the Board in 2014 and 2018 respectively (**Plan A-1b**). Details of the previous applications are summarised in paragraph 5 below and **Appendix II**. Compared with the last application, the current application is submitted by the same applicant for a different use, with similar site layout and development parameters on a smaller site.

- 1.3 According to the applicant, the proposal will provide indoor sport activities (such as basketball, badminton and table tennis) to meet the needs of the local residents. Larger floor area and higher headroom are required to meet the standards for playing badminton and basketball (**Drawing A-2**). The maximum capacity of the proposed centre is 20 persons and the visiting public will be charged for using the facilities on hourly basis. No medium or heavy goods vehicle will be allowed on the Site. The applicant also undertakes to provide and maintain all the drainage facilities within the Site at its own expenses. Plans showing the site layout, photomontages and drainage proposal submitted by the applicant are at **Drawings A-1 to A-4** respectively.
- 1.4 The major development parameters of the previously rejected application and the current application are summarised as follows:

Major Development Parameters	Previously Rejected Application No. A/YL-TYST/918 (a)	Current Application No. A/YL-TYST/1050 (b)	Difference (b)-(a)
Applied Use	Proposed Temporary Shop and Services (Furniture and Cleaning Equipment) for a Period of 3 Years	Proposed Temporary Place of Recreation, Sports or Culture (Indoor Recreation Centre) for a Period of 3 Years	Change in Use
Site Area	About 1,500 m ² (including about 340 m ² of GL)	About 1,445 m ² (including about 310 m ² of GL)	-55 m ² (-3.7%)
Total Floor Area (Non-domestic)	1,000 m ²		--
No. and Height of Structure	1 (7m, 1 storey)		--
No. of Parking Space	Nil		--
No. of Loading/Unloading Space	1 (for light goods vehicle) (7 m x 3.5 m)		--
Operation Hours	9:00 a.m. to 7:00 p.m. daily	9:00 a.m. to 9:00 p.m. daily	Longer operation hours

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form received on 14.9.2020 (**Appendix I**)
 - (b) Supplementary Planning Statement (**Appendix Ia**)
 - (c) Further Information (FI) received on 21.10.2020 providing responses to departmental comments, a revised (**Appendix Ib**)

site layout plan and a market study

- (d) FI received on 22.10.2020 providing a further revised site layout plan and related clarifications **(Appendix Ic)**
[(c) and (d) exempted from publication and recounting requirements]

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are mainly detailed in the Supplementary Planning Statement and the FI (**Appendices Ia to Ic**). They can be summarised as follows:

- (a) The proposal is in line with the relevant planning intentions, including the planning intention of the “R(D)” zone to upgrade the area. The proposal would offer indoor recreational activities to local residents and could improve the living quality of the neighbourhood. The local public would be engaged to beautify the façade of the structure, which would strengthen the sense of identity of the neighbourhood.
- (b) There is a genuine need for an indoor recreation centre in Tan Kwai Tsuen due to the concentration of higher income residents, the lack of planned/ existing indoor sports facilities in the area, and the presence of a number of schools in the area. While there are outdoor basketball courts in the area, they are generally substandard and ill-maintained.
- (c) The proposed BH would meet the clear height requirements for the proposed sports (i.e. 4.05m, 7m and up to 9m for table tennis, basketball and badminton respectively) under the Hong Kong Planning Standards and Guidelines (HKPSG), and is not unreasonable. The bright and spacious atmosphere will offer pleasant indoor sport experiences. Experienced staff will be hired to manage the recreation centre. The proposed hourly rates have taken into account the rates of government sports facilities and other recurrent and operation costs, such as air-conditioning and staffing. Concessionary rates will be offered to non-profit organisations.
- (d) The proposal is compatible with the surrounding uses. Most visitors will arrive on foot. No pedestrian safety concerns are envisaged as there is only limited traffic arising from the proposal and no medium or heavy goods vehicle will enter the Site. Besides, the ingress/egress at Shui Fu Road would not conflict with the ingress/egress of the Rosary Church. No significant traffic, environmental, drainage and sewerage impacts are expected.
- (e) The proposal has duly taken into consideration the concerns raised by members of the public and the Committee on the last application. The current application for a community-based use should be considered afresh by 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. 31A) by obtaining consent from the “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection. For GL, the requirements as set out in TPB PG-No. 31A are not applicable.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Applications

- 5.1 The Site involves two previously rejected applications (No. A/YL-TYST/701 and 918) for temporary warehouse and shop and services uses covering different extents of the Site. Details of the applications are summarised in **Appendix II** and the locations of the sites are shown on **Plan A-1b**.
- 5.2 Application No. A/YL-TYST/701 for proposed temporary warehouse for storage of construction material for a period of 3 years was rejected by the Committee on 12.12.2014 mainly on the grounds that the development was not in line with the planning intention of the “R(D)” zone; there was potential adverse environmental impact arising from the proposal; and the approval of the application would set an undesirable precedent.
- 5.3 Application No. A/YL-TYST/918 for proposed temporary shop and services (retail shop for furniture and cleaning equipment) for a period of 3 years was rejected by the Committee on 5.10.2018 mainly on the grounds that the development was not in line with the planning intention of the “R(D)” zone and no strong planning justification had been given in the submission to justify a departure from the planning intention, even on a temporary basis.
- 5.4 Compared with the last application, the current application is submitted by the same applicant for a different use, with similar site layout and development parameters on a smaller site.

6. Similar Application

There is no similar application within the subject “R(D)” and “R(B)1” zones.

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

- 7.1 The Site is:
 - (a) abutting Shui Fu Road to its north; and
 - (b) paved and largely covered by a vacant warehouse structure.
- 7.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) comprise predominantly residential developments/structures intermixed with a church cum kindergarten (the latter is temporarily not in operation), a vacant school, a village office, parking of vehicles, a park, a storage yard, graves, a plant nursery, a latrine, shrubland, unused land and vacant land/structures;
- (b) there are existing residential developments in the vicinity of the Site, including Casa Regalia, Tan Kwai Garden and Osmanthus Gardens along Tan Kwai Tsuen Road in the subject “R(B)1” zone;
- (c) to the immediate east are mainly shrubland and unused/vacant land within the adjoining “Green Belt” zone; and
- (d) the aforementioned parking of vehicles and storage yard in the vicinity are suspected unauthorised developments (UD) subject to enforcement action taken by the Planning Authority.

8. Planning Intentions

- 8.1 The planning intention of the “R(D)” zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings. It is also intended for low-rise, low-density residential developments subject to planning permission from the Board.
- 8.2 The planning intention of the “R(B)1” zone is primarily for sub-urban medium-density residential developments in rural areas where commercial uses serving the residential neighbourhood may be permitted on application to the Board.

9. Comments from Relevant Government Departments

- 9.1 The following government departments have been consulted and their views on the application and public comment, where applicable, 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 Lot (OSAL) and GL. The OSAL is 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) No permission is given for occupation of the GL included in the Site (about 310 m² subject to verification). The act of occupation of GL without Government’s prior approval is not allowed.

- (c) Should planning approval be given to the application, the lot owner(s) of the lot(s) will need to apply to her office for permitting the structures to be erected or to regularise any irregularities on site, if any. The applicant has to either exclude the GL from the Site or apply for a formal approval prior to the actual occupation of the GL. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Application(s) for any of the above will be considered by her department acting in the capacity of 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 such terms and conditions, including among others the payment of rent or fee, as may be imposed by her department.

Traffic

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

- (a) He has no adverse comment on the application from traffic engineering point of view having considered the FI (**Appendix Ib**) submitted by the applicant.
- (b) Sufficient manoeuvring space shall be provided within the Site. No vehicles are allowed to queue back to public roads or reverse onto/from public roads.

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

- (a) If the proposed run-in/out is agreed by the Transport Department, the applicant should construct the run in/out at Shui Fu Road in accordance with the latest version of Highways Standard Drawing No. H1113 and H1114, or H5133, H5134 and H5135, whichever set is appropriate to match with the existing adjacent pavement.
- (b) His department shall not be responsible for the maintenance of any access connecting the Site and Shui Fu Road. In addition, the applicant should be reminded of the detailed comments at **Appendix IV**.

Environment

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

Should the planning application be approved, the applicant should be advised to follow relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” (Code of Practice) to minimise any potential environmental nuisances on the surrounding areas.

Drainage

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

- (a) He has no objection in principle to the proposed development from the public drainage point of view.
- (b) The applicant should be reminded of the detailed comments on the submitted drainage proposal and the application at **Appendix IV**.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the submission of a revised drainage proposal, and the 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 stipulated.

Fire Safety

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

- (a) He has no objection in principle 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. In addition, the applicant should be reminded of the detailed comments at **Appendix IV**.

Building Matters

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

- (a) As there is no record of approval by the Building Authority (BA) for the existing structures at the Site, he is not in a position to offer comments on their suitability for the use proposed in the application.
- (b) The applicant's attention is drawn to the following points:
 - (i) If the existing structures (not being a New Territories Exempted House) are erected on leased land without the approval of BA, they are unauthorised building works (UBW) under the Buildings Ordinance (BO) and should not be designated for any proposed use under the application.

- (ii) For UBW erected on leased land, enforcement action may be taken by BD to effect their removal in accordance with the prevailing 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.
- (iii) Before any new building works (including containers/open sheds as temporary buildings, demolition and land filling, etc.) are to be carried out on the Site, prior approval and consent of BA should be obtained, otherwise they are UBW. An Authorised Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (iv) 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.
- (v) The Site does not abut on a specified street of not less than 4.5m wide and its permitted development intensity shall be determined under Regulation 19(3) of the B(P)R at building plan submission stage.
- (vi) Detailed checking under BO will be carried out at building plan submission stage.

District Officer's Comments

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

His office has not received any feedback from the locals.

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

- (a) Director of Leisure and Cultural Services (DLCS);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Director of Electrical and Mechanical Services (DEMS);
- (d) Project Manager (West), Civil Engineering and Development Department (PM(W), CEDD);
- (e) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (f) Commissioner of Police (C of P).

10. Public Comment Received During the Statutory Publication Period

On 22.9.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment from an individual

was received questioning the details of the proposed operation and the associated environmental impacts (**Appendix III**).

11. Planning Considerations and Assessments

- 11.1 The subject application is for proposed temporary place of recreation, sports or culture (indoor recreation centre) for a period of three years at a site mostly zoned “R(D)” (79.7%), partly zoned “R(B)1” (19.6%) and marginally zoned “G/IC” (0.7%) on the OZP. Although the proposed development is not entirely in line with the planning intentions of the “R(D)” and “R(B)1” zones, which are intended primarily for improvement and upgrading of existing temporary structures within the rural areas for low-rise and low-density residential development and for sub-urban medium-density residential development respectively, the proposal is intended to serve the recreation needs of the local residents and there is no known programme for the long-term development of the Site. The applicant has also provided justifications, in the form of a market study, to demonstrate the need for such facilities in the Tan Kwan Tsuen area. Approval of the application on a temporary basis of three years would not jeopardise the long-term development of the area.
- 11.2 The Site is located in an inconspicuous location away from the main thoroughfare of Tan Kwai Tsuen Road. Although the proposed indoor recreation centre would be carried out within a 7m-high warehouse-like structure with a floor area of about 1,000m², the applicant has substantiated the high headroom and large floor space in reference to the relevant standards under the HKPSG (e.g. the 4.05m, 7m and up to 9m headroom for table tennis, basketball and badminton respectively). Given the nature of the proposal, the proposed indoor recreation centre is considered not entirely incompatible with the surrounding uses in the area (**Plan A-2**).
- 11.3 There are no adverse comments on the application from concerned government departments, including CBS/NTW, BD, C for T, DEP and CE/MN, DSD. Significant adverse traffic, environmental and drainage impacts on the surrounding area are not envisaged. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to address the public concerns and the technical concerns of relevant government departments. Any non-compliance with the approval conditions will result in revocation of the planning permission and UD on the Site will be subject to enforcement action by the Planning Authority. Should the planning application be approved, the applicant will also be advised to follow the latest Code of Practice in order to minimise any potential environmental impact on the surrounding areas, and that the granting of planning approval should not be construed as an acceptance of any existing building works or UBW on the Site under the BO.
- 11.4 There are no similar applications within the subject “R(D)” and “R(B)1” zones. There were two previous applications (No. A/YL-TYST/701 and 918) for temporary warehouse and shop and services uses, which were rejected by the Committee mainly on the grounds that no strong planning justifications had been given in the submissions to justify a departure from the planning intention of the “R(D)” zone and there were potential adverse environmental impact on the

surrounding area. However, such considerations are generally not applicable to the current application as the subject proposal is for a different use; the applicant has provided relevant justifications to substantiate the need for the proposal; and DEP has no adverse comment on the application.

- 11.5 There is one public comment received on the application during the statutory publication period as summarised in paragraph 10 above. The planning considerations and assessments in paragraphs 11.1 to 11.4 above are relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 12 and having taken into account the public comment mentioned in paragraph 11 above, the Planning Department has no objection to the application.
- 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 6.11.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 9:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (c) the submission of a run-in/out proposal within **6** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 6.5.2021;
- (d) in relation to (c) above, the implementation of a run-in/out proposal within **9** months from the date of planning approval to the satisfaction of the Director of Highways or of the Town Planning Board by 6.8.2021
- (e) the submission of a revised 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 6.5.2021;
- (f) in relation to (e) above, the implementation of the 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 6.8.2021;
- (g) in relation to (f) above, the implemented drainage facilities shall be maintained at all times during the planning approval period;
- (h) 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 6.5.2021;

- (i) in relation to (h) 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 6.8.2021;
- (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; and
- (k) if any 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.

Advisory clauses

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

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

the development is not in line with the planning intentions of the "R(D)" and "R(B)1" zones. The planning intention of the "R(D)" zone is primarily for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, while the planning intention of the "R(B)1" zone is primarily for sub-urban medium-density residential developments in rural areas. No strong planning justification has been given in the submission to justify 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 received on 14.9.2020
Appendix Ia	Supplementary Planning Statement
Appendix Ib	FI received on 21.10.2020
Appendix Ic	FI received on 22.10.2020

Appendix II	Previous Applications covering the Site
Appendix III	Public Comment received during the Statutory Publication Period
Appendix IV	Recommended Advisory Clauses
Drawing A-1	Site Layout Plan
Drawings A-2 and A-3	Photomontages
Drawing A-4	Drainage Proposal
Plan A-1a	Location Plan
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plan A-4	Site Photos

**PLANNING DEPARTMENT
NOVEMBER 2020**