

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/900

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| <u>Applicant</u> | : | Well Vision Holdings Limited represented by PlanArch Consultants Limited |
| <u>Site</u> | : | Lot 1034 S.A RP (Part) in D.D. 121 and Adjoining Government Land, Tong Yan San Tsuen, Yuen Long, New Territories |
| <u>Site Area</u> | : | 130 m ² (about) (including about 37 m ² of Government land (GL)) |
| <u>Lease</u> | : | Block Government Lease (demised for agricultural use) |
| <u>Plan</u> | : | Draft Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/11 |
| <u>Zoning</u> | : | “Residential (Group B) 1” (“R(B)1”) [Restricted to maximum plot ratio (PR) of 1; maximum site coverage (SC) of 40%; and maximum building height (BH) of 4 storeys over single-storey car park (15m)] |
| <u>Application</u> | : | Proposed Temporary Place of Recreation and Sports (Martial Arts Training Venue) for a Period of 5 Years |

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for proposed temporary place of recreation and sports (martial arts training venue) for a period of 5 years (**Plan A-1**). According to the Notes of the OZP for the “R(B)1” zone, ‘Place of Recreation, Sports or Culture’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The applicant seeks planning permission for 5 years. The Site is currently vacant and hard-paved (**Plans A-2 and A-4**), and is not involved in any previous application.
- 1.2 The Site is accessible via a local track leading from Tong Yan San Tsuen Road and Sha Tseng Road to its north (**Plan A-2**). According to the applicant, the proposed development aims to provide an indoor practice venue for followers of Lung Ying Fist (龍形正宗趙宗國術同學會) and it is not for profit making purpose. The maximum capacity of the proposed practice venue will be limited

to 20. The practice of martial arts will be carried out within the proposed structure to avoid any potential nuisance to the surroundings. The practice hours are between 9:00 a.m. and 10:00 p.m. daily. Peripheral planting will be proposed by the applicant to enhance visual amenity of the area. Plans showing pedestrian access leading to the Site, the proposed site layout with peripheral planting and internal layout submitted by the applicant are shown in **Drawings A-1 to A-3** respectively.

- 1.3 The major development parameters of the application are summarized as follows:

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| Site Area | 130 m ² (including 37 m ² of GL) |
| Total Floor Area (Non-domestic) | 100 m ² |
| No. of Structure | 1 (for practice area, storage and toilet uses) |
| Height of Structure | 3-4 m (1 storey) |
| Materials of Structure | Metal sheets and frames |
| Operation Hours | 9:00 a.m. to 10:00 p.m. daily |

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

- (a) Application Form received on 9.5.2018 **(Appendix I)**
- (b) Supplementary Planning Statement **(Appendix Ia)**
- (c) Supplementary Information dated 15.5.2018 clarifying the site area and the GL involved **(Appendix Ib)**
- (d) Further Information dated 11.6.2018 providing information on the implementation stage **(Appendix Ic)**
- (e) Further Information dated 14.6.2018 clarifying the type of martial arts and that no dragon and lion dance will be carried out on site **(Appendix Id)**
- (f) Further Information dated 20.6.2018 in response to the comments from the Transport Department, clarifying the background information, providing internal layout and information on the material of the enclosed structure **(Appendix Ie)**
- (g) Further Information dated 26.6.2018 clarifying the practice hours **(Appendix If)**

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Section 4 of the Supplementary Planning Statement at **Appendix Ia** and the further information at **Appendices Ic to If**. They can be summarised as follows:

- (a) Martial arts is an important Chinese cultural heritage and is regarded as intangible cultural heritage of Hong Kong. The support to martial arts practice at the community level, however, is rather inadequate. The proposed temporary practice venue of martial arts will allow followers of Lung Ying Fist (龍形正宗趙宗國術同學會) to sustain their practice.
- (b) The Site is too small for any meaningful developments. The scattered land ownership in the vicinity has yet to be consolidated and there is no programme and premature for any residential development at the moment.
- (c) Since the proposed use is temporary in nature, it will not jeopardise the long-term planning intention for sub-urban medium-density residential developments in the future. The proposed temporary practice venue of martial arts will make optimal use of the Site during the interim period.
- (d) The proposed venue is only for the practice of Lung Ying Fist (龍形拳), no dragon and lion dance or other noisy sports will be carried out. Originally, the followers of Lung Ying Fist (龍形正宗趙宗國術同學會) are practising at their master's home in Yuen Long. However, after the death of their master, his family decided that the practice shall no longer be carried out there. One of the followers, who is one of the directors of Well Vision Holdings Limited (i.e. the applicant), decide to use the Site for the proposed indoor practice venue. It is not for profit making purpose.
- (e) Currently, there are a total of about 20 followers of Lung Ying Fist (龍形正宗趙宗國術同學會). Since they have no intention to hold classes for beginners, the number of followers is not expected to be increased. Furthermore, in order to allow sufficient room for practice, the maximum capacity of the proposed practice venue will be limited to 20.
- (f) The Site is suitable for practicing venue of martial arts. It is currently vacant and hard-paved and is conveniently served by public transportation. The proposed use is a clean and non-polluting use where any activities will be carried within the enclosed structure of metal sheet and frames. The practice hour will be restricted to 9:00 a.m. to 10:00 p.m. daily and peripheral planting is proposed to enhance visual amenity of the area. No nuisance to the local residents is anticipated. The proposed structure is also compatible with the surrounding residential developments and will not affect the character of the neighbourhood. The proposed development can also put the piece of land under better management to enhance the environment and amenity.
- (g) Upon the approval of the application by the Board, the applicant will apply to the Lands Department for short term waiver and short term tenancy and pay the rent/wavier fee at market rate.

- (h) No adverse drainage, traffic and visual impact is anticipated.
- (i) There was a number of applications for various temporary uses in the same “R(B)1” zone, such as temporary carpet shop, retail shop and real estate agency. Since the proposed use is of similar non-polluting nature, approving the application will not set undesirable precedent.

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

The applicant is one of the “current land owners”. In respect of the other “current land owners”, the applicant 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 other “current land owners”. Detailed information would be deposited at the meeting for Members’ inspection.

4. Background

The Site is currently not subject to planning enforcement action.

5. Previous Application

The Site is not a subject of any previous application.

6. Similar Application

There is no similar application within the same “R(B)1” zone on the OZP.

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

7.1 The Site is:

- (a) accessible via a local track leading from Tong Yan San Tsuen Road and Sha Tseng Road to its north; and
- (b) currently vacant and hard-paved.

7.2 The surrounding areas have the following characteristics (**Plan A-2**):

- (a) the surrounding areas comprise mainly residential developments/structures with open storage yards, car park/parking of vehicles, canteen, unused land and vacant land/structures;
- (b) to its northeast, northwest and further north across Tong Yan San Tsuen Road and to its further west and further southwest within the “R(B)1” zone are residential developments, including Greenville Residence and

Windsor Villa;

- (c) to its north is a canteen and vacant structure;
- (d) to its east are vacant land with valid planning permission under application No. A/YL-TYST/859 for temporary shop and services (real estate agency) use, office and parking of vehicles;
- (e) to its further southeast are a retail shop for home appliance operating with valid planning permission under application No. A/YL-TYST/820 and an open storage yard of recycling materials in the adjacent “Residential (Group D)” zone;
- (f) to its south are vacant structures and unused land;
- (g) to its northwest is a car park; and
- (h) the open storage yards, car park/parking of vehicles and canteen in the vicinity are mostly suspected unauthorized developments subject to enforcement action taken by the Planning Authority.

8. Planning Intention

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 neighborhood 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/or the public comments received are summarised as follows:

Land Administration

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

- (a) The Site comprises an Old Schedule Agricultural Lots held under 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 GL (about 37m² subject to verification) included in the Site. Any occupation of GL without Government’s prior approval is not allowed.

- (c) The Site is accessible to Tong Yan San Tsuen Road via GL. Her office does not provide maintenance work for GL involved and does not guarantee any right-of-way over the GL to the Site.
- (d) The Site does not fall within Shek Kong Airfield Height Restriction Area.
- (e) Should planning approval be given to the subject planning application, the Short Term Waiver (STW) holder(s) will need to apply to her office for modification of the STW conditions if there is any irregularities on site. Furthermore, the applicant has to either exclude the GL portion from the Site or apply for a formal approval prior to the actual occupation of the GL portion. 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 such terms and conditions, including among others the payment of premium or fee, as may be imposed by LandsD.

Traffic

9.1.3 Commissioner for Transport (C for T):

- (a) He considers that the further information dated 20.6.2018 (**Appendix Ie**) has demonstrated the impact to the existing public transport services arising from the development to be insignificant.
- (b) Given that no car parking spaces are provided within the Site and no vehicular ingress/egress to the Site is proposed by the applicant, he has no comment on the planning application from traffic engineering viewpoint.

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

- (a) The access arrangement should be commented by the Transport Department.
- (b) Adequate drainage measures should be provided at the Site access to prevent surface water flowing from the Site to nearby public roads/drains.
- (c) His department shall not be responsible for the maintenance of any access connecting the Site and Tong Yan San Tsuen Road.

Environment

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

- (a) According to the applicant, the practice of martial arts will be carried out within the proposed structure to avoid any potential nuisance to the surroundings. The practice hours will be limited to between 9:00 a.m. and 10:00 p.m. daily.
- (b) Provided that the applicant would minimise any noise from the proposed use so that it would not cause any environmental nuisance to nearby sensitive receivers, he has no objection to the application from environmental planning perspective. The applicant is also advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise any potential environmental nuisance.

Nature Conservation

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

Noting that the Site is paved and falls within “R(B)1” zone, he has no comment on the application from nature conservation point of view. Nevertheless, should the application be approved, the applicant should be advised to preserve the existing vegetation to the west of the Site.

Landscape

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

- (a) The Site involves planning application of a single storey building for temporary place of recreation and sports (martial arts training venue) within an area zoned “R(B)1” on the draft Tong Yan San Tsuen OZP No. S/YL-TYST/11, for a period of 5 years.
- (b) With reference to the information submitted and aerial photo taken in December 2015, the Site has already been formed/hard-paved. Some existing trees in the proximity of the Site are identified, with their canopies falling within the Site. Significant landscape impact arising from the proposed use on the area is not anticipated. Therefore, she has no objection to the application from the landscape planning perspective.

- (c) Should the application be approved, approval conditions requiring the submission and implementation of landscape proposal to the satisfaction of the Board or of the Director of Planning are recommended.
- (d) The applicant should be advised that shrubs, instead of trees, should be considered for the peripheral landscape planting in view of the limited planting area.

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 from the public drainage point of view.
- (b) Should the Board consider the application is acceptable from the planning point of view, approval conditions requiring the submission and implementation of a drainage proposal to the satisfactions of the Director of Drainage Services or of the Board, and maintenance of the drainage facilities should be stipulated.

Fire Safety

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

- (a) He has no objection in principle to the application subject to fire services 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 department for approval. In addition, the applicant should also be advised on the following points:
 - (i) The layout plans should be drawn to scale and depicted with dimensions and nature of occupancy.
 - (ii) The location of where the proposed FSIs to be installed should be clearly marked on the layout plans.
- (c) However, the applicant is reminded that if the proposed structure(s) is required to comply with the Buildings Ordinance (BO) (Cap. 123), detailed fire service requirements will be formulated upon receipt of formal submission of general building plans.

Building Matters

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

The applicant's attention is drawn to the following points:

- (i) Before any new building works (including containers/open sheds as temporary buildings) are to be carried out on the Site, prior approval and consent of BD should be obtained, otherwise they are unauthorized building works (UBW). An Authorized Person should be appointed as the co-ordinator for the proposed building works in accordance with the BO.
- (ii) For UBW erected on leased land, enforcement action may be taken by 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.
- (iii) 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.
- (iv) 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.

Others

9.1.11 Comments of the Chief Engineer/Cross-boundary Infrastructure and Development, Planning Department (CE/CID, PlanD):

- (a) CEDD and PlanD jointly commissioned the "Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation" (the Study). According to the Recommended Outline Development Plan (RODP) of YLS promulgated on 8 August 2017, the Site falls within an area shown as "Residential-Zone 5" ("R5").
- (b) The objective of YLS development is to transform the degraded rural land predominantly occupied by brownfield operations including open storage yards, warehouses and rural industrial uses into housing and other uses with supporting infrastructure and community facilities, and to improve the existing environment. It is noted that the application is for temporary use for a period of 5 years. In considering the application for

temporary uses, due consideration should be given on the possible implication on land clearance which would affect the future implementation of YLS development.

9.1.12 Comments of the Project Manager (New Territories West), Civil Engineering and Development Department (PM(NTW), CEDD):

- (a) He has no objection to the temporary use for 5 years, which should be considered in accordance with the provisions of the current OZP and existing infrastructure capacities.
- (b) However, the Site falls within the boundary of YLS Development. According to the Study, to ensure timely and orderly implementation, the development of YLS and relevant site formation and infrastructure works would be implemented in four stages. The lot(s) concerned falls within a site under Stage 4 Works. While the detailed implementation programme for the project is still being formulated, based on the Study, it is envisaged that clearance of the Site in question will not be arranged before the first population intake of the YLS Development expected in 2027.

District Officer's Comments

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

His office has not received any comment from the locals regarding the application.

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

- (a) Secretary for Home Affairs (S for HA);
- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Director of Leisure and Cultural Services (DLCS);
- (d) Director of Electrical and Mechanical Services (DEMS); and
- (e) Commissioner of Police (C of P).

10. Public Comments Received During Statutory Publication Period

10.1 On 18.5.2018, the application was published for public inspection. During the first three weeks of the statutory public inspection period, which ended on 8.6.2018, a total of two public comments were received from members of the public.

10.2 A commenter suggests that the Board should not only consider the proposed use of the application but also the nature of the application, the detail layout of the Site and the impacts of the proposed use to the surrounding environment

(**Appendix II-1**). Another commenter objects to the application on grounds of alternative venue nearby for practicing martial arts, unauthorised parking of vehicles, potential noise nuisances, security and traffic issues (**Appendix II-2**).

11. Planning Considerations and Assessments

- 11.1 The subject application is for temporary place of recreation and sports (martial arts training venue) for a period of 5 years at a Site zoned “R(B)1” on the OZP. 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 neighborhood may be permitted on application to the Board. Although the applied use is not entirely in line with the planning intention of the “R(B)1” zone, approval of the application on a temporary basis would not jeopardize the long-term planning intention of the “R(B)1” zone.
- 11.2 The proposed development, which is housed within a single-storey structure, is considered not incompatible with the surrounding environment which comprises a mix of residential structures/developments, open storage yards, car park/parking of vehicles, canteen, unused land and vacant land/structures (**Plan A-2**).
- 11.3 Relevant government departments consulted, including C for T, DEP, CTP/UD&L of PlanD, CE/MN of DSD, D of FS and DFEH, have no objection to or adverse comment on the application. No adverse impacts on traffic, environmental, landscape, drainage, fire safety and environmental hygiene from the proposed development is expected. To address the technical requirements of concerned government departments, relevant approval conditions are recommended in paragraph 12.2 below. Any non-compliance with the approval conditions will result in revocation of the planning permission. Should the planning application be approved, the applicant will also be advised to follow the relevant mitigation measures and requirements in the “Code of Practice on Handling Environmental Aspects of Temporary Uses and Open Storage Sites” in order to minimize any potential environmental impact.
- 11.4 There are two public comments (**Appendices II-1 and II-2**) received during the statutory publication period as summarised in paragraph 10. Relevant government departments, including DEP, C for T and C of P, have been consulted and they have no adverse comments on or objection to the application. Regarding the potential noise nuisances, mitigation measures are proposed by the applicant, including that the proposed practice hour is restricted from 9:00 a.m. to 10:00 p.m daily; the training venue will be fully-enclosed; and peripheral planting will be provided. Also, the applicant claims that no dragon and lion dance activities or other noisy sports will be carried out on the Site (**Appendix Id**). The planning considerations and assessments in paragraph 11.1 to 11.3 are also relevant.

12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11 and having taken into account the public comments as mentioned in paragraph 10 above, the Planning Department considers that the temporary place of recreation and sports (martial arts training venue) could be tolerated for a period of 5 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 5 years until 6.7.2023. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no operation between 10:00 p.m. and 9:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) the provision of boundary fence on the Site within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 6.1.2019;
- (c) the submission of a landscape proposal within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 6.1.2019;
- (d) in relation to (c) above, the implementation of the landscape proposal within **9** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 6.4.2019;
- (e) the submission of a drainage proposal within **6** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 6.1.2019;
- (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 6.4.2019;
- (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 6.1.2019;
- (i) in relation to (h) above, the implementation of 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 6.4.2019;

- (j) if any of the above planning conditions (a) 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 (b), (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 III**.

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

the proposed development is not in line with the planning intention of the "R(B)1" zone which is primarily intended 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 intention, 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 reasons for rejection should be given to the applicant.

14. Attachments

- Appendix I** Application Form received on 9.5.2018
- Appendix Ia** Supplementary Planning Statement
- Appendix Ib** Supplementary Information dated 15.5.2018 clarifying the Site area and the GL involved

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| Appendix Ic | Further Information dated 11.6.2018 providing information on the implementation stage |
| Appendix Id | Further Information dated 14.6.2018 clarifying the type of martial arts and that no dragon and lion dance will be carried out on site |
| Appendix Ie | Further Information dated 20.6.2018 in response to the comments from the Transport Department, clarifying the background information, providing internal layout and information on the material of the enclosed structure |
| Appendix If | Further Information dated 26.6.2018 clarifying the practice hours |
| Appendices II-1 and II-2 | Public Comments received during Statutory Publication Period |
| Appendix III | Recommended Advisory Clauses |
| Drawing A-1 | Site Plan showing pedestrian access leading to the Site |
| Drawing A-2 | Site Layout Plan with peripheral planting |
| Drawing A-3 | Internal Layout Plan |
| Plan A-1 | Location Plan |
| Plan A-2 | Site Plan |
| Plan A-3 | Aerial Photo |
| Plans A-4 | Site Photos |

**PLANNING DEPARTMENT
JULY 2018**