

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1127

- Applicant** : Exact Win Limited represented by Metro Planning and Development Company Limited
- Site** : Lots 1020 (Part), 1021 (Part) and 1024 (Part) in D.D. 121, Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 892 m² (about)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zonings** : “Residential (Group B)1” (“R(B)1”) (about 66.6%); and
[Restricted to a maximum plot ratio of 1, maximum site coverage of 40% and building height of 4 storeys over single-storey carpark (15m)]

“Residential (Group D)” (“R(D)”) (about 33.4%)
[restricted to a maximum plot ratio of 0.2 and maximum building height of 2 storeys (6m)]
- Application** : Proposed Temporary Shop and Services 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 shop and services for a period of 3 years (**Plan A-1**). The Site falls within an area mainly zoned “R(B)1” (about 66.6%) and partly zoned “R(D)” (about 33.4%) on the OZP. According to the Notes of the OZP for the “R(B)” and “R(D)” zones, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is formed and currently occupied by largely vacant structures (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site involves a previous application (No. A/YL-TYST/820) for the same use as the current application, which was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 23.12.2016 (**Plan A-1**). All the approval conditions of the planning permission had been complied with and the planning permission lapsed on 24.12.2019. Compared with the previous application, the current application is

submitted by the same applicant for the same use at the same site with slightly different development parameters and site layout.

- 1.3 According to the applicant, the proposal is for a temporary shop selling metal and home appliances to serve the nearby residents. No workshop activity will be carried out at the Site. No medium or heavy goods vehicles, including container tractors/trailers, are allowed to access the Site. Plans showing the vehicular access leading to the Site, site layout and as-built drainage facilities submitted by the applicant are at **Drawings A-1 to A-3** respectively.
- 1.4 The major development parameters of the current application and the previously approved application No. A/YL-TYST/820 are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/820 (a)	Current Application No. A/YL-TYST/1127 (b)	Difference (b)-(a)
Proposed Use	Proposed Temporary Shop and Services for a Period of 3 Years		---
Site Area	About 892 m ²		---
Total Floor Area (Non-domestic)	About 150 m ²	About 226 m ²	+76 m ² (+50.7%)
No. and Height of Structures	4 • for shop, site office, toilet and electricity meter room (3m-6m, 1 storey)	8 • for shop, site office, store room, toilet, meter room, water tank, pump room and rain shelter (3m-6m, 1-2 storey(s))	+4 (+100%)
No. of Loading/ Unloading Space(s)	1 (for light goods vehicles (LGVs)) (7m x 3.5m)		---
No. of Parking Space(s)	1 (for private cars/LGVs) (5m x 2.5m)	1 (for private cars) (5m x 2.5m)	---
Operation Hours	9:00 a.m. to 8:00 p.m. daily		---

- 1.5 In support of the application, the applicant has submitted an Application Form with annex and plans received on 15.11.2021 (**Appendix I**).

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in the Application Form (**Appendix I**). They can be summarised as follows:

- (a) The Site was the subject of a previous planning permission for the same shop and service use. Similar shop and services have been approved in the area. The temporary proposal would not jeopardise the long-term planning intentions of the “R(B)” and “R(D)” zones. The proposal is not incompatible with the surrounding environment.
- (b) There will be minimal traffic, environmental and drainage impacts arising from

the proposal.

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 posting site notice and sending notice to the Ping Shan Rural Committee by registered post. 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 involves one previous application (No. A/YL-TYST/820) for the same use at the same site as the current application, which was approved by the Committee in 2016 mainly on the considerations that approval of the application on a temporary basis would not frustrate the long-term development of the area; the development was not incompatible with the surrounding uses; and the concerns of relevant government departments could be addressed by imposing approval conditions. All the approval conditions of the planning permission had been complied with and the planning permission lapsed in 2019. Details of the application are summarised in **Appendix II** and the boundary of the site is shown on **Plan A-1**. Compared with the last application, the current application is submitted by the same applicant for the same use at the same site with slightly different development parameters and site layout.

6. Similar Applications

- 6.1 There are 17 similar applications for various temporary shop and services with/without other uses within/straddling the subject “R(B)1” and “R(D)” zones. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1**.

Approved Applications (12 cases)

- 6.2 Applications No. A/YL-TYST/445, 473, 622, 709, 767, 785, 859, 940, 998, 1029 1095 and 1120 were all approved with conditions each for a period of 1 or 3 year(s) by the Committee between 2009 and 2021, mainly on the considerations that the proposals were not incompatible with the surrounding uses; the proposals would not frustrate the long-term development of the area; and the concerns of relevant government departments could be addressed by imposing approval conditions. However, the planning permissions for five of them were subsequently revoked between 2011 and 2021 due to non-compliance with approval conditions.

Rejected Applications (5 cases)

- 6.3 Applications No. A/YL-TYST/546, 915, 1047, 1064 and 1116 were rejected by the Committee or the Board on review between 2012 and 2021 mainly on the grounds that the proposal was not in line with the planning intention of the “R(B)” or “R(D)” zone as the scale of the proposals was excessive and/or the location of the site was remote from any local clientele.

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

- 7.1 The Site is:

- (a) accessible from Tong Yan San Tsuen Road to its north via a local track; and
- (b) formed and currently occupied by largely vacant structures.

- 7.2 The surrounding areas have the following characteristics (**Plans A-2 and A-3**):

- (a) comprise predominately low-rise residential structures/developments and vacant land/structures, with scattered open storage/storage yards, workshops, warehouses, carparks, a site office, a restaurant and shrubland;
- (b) there are residential structures and developments (namely Windsor Villa) in the vicinity of the Site with the nearest residence located about 35m to its north; and
- (c) except for two open storage/storage yards within the “R(D)” zone, the other open storage/storage yards, carparks, workshops, warehouses, site office and restaurant in the vicinity are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

8. Planning Intentions

- 8.1 The planning intention of the “R(B)” 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.
- 8.2 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.

9. Comments from Relevant Government Departments

- 9.1 The following government departments have been consulted and their views on the application and public comments, where relevant, 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 Old Schedule Agricultural Lots held under the Block Government Lease which contains the restriction that no structures are allowed to be erected without the prior approval of the Government.
- (b) Lot No. 1024 in D.D. 121 is covered by Short Term Waiver (STW) No. 4859 to permit structures erected thereon for the purpose of “Temporary Shop and Services (Retail Shop for Metal and Home Appliance)”.
- (c) Should planning approval be given to the application, the STW holder(s) will need to apply to her office for modification of the STW conditions where appropriate and the lot owner(s) of the lot(s) without STW will need to apply to her office to permit the structures to be erected or regularise irregularities on site, if any. Besides, given the proposed use is temporary in nature, only application for regularisation or erection of temporary structure(s) will be considered. Applications 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 will be approved. If such application 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):

The applicant should be reminded of the detailed comments at **Appendix V**.

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

- (a) Adequate drainage measures should be provided to prevent surface water running from the Site to nearby public roads and drains.
- (b) The access road connecting the Site with Sha Tseng Road is not and will not be maintained by his office. His office shall not be responsible for maintaining any access connecting the Site and Sha Tseng Road.

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 the relevant mitigation measures and requirements in the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Use” (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.
- (b) Based on the drainage plan enclosed in the application (**Drawing A-3**), apparently the applicant would maintain the same drainage facilities as those implemented under previous application No. A/YL-TYST/820.
- (c) Should the Board consider that the application is acceptable from the planning point of view, approval conditions requiring the maintenance of the drainage facilities implemented under application No. A/YL-TYST/820 and the submission of records of the existing drainage facilities on site 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. 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 advised of the detailed comments at **Appendix V**.

Building Matters

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

The applicant should be reminded of the detailed comments at **Appendix V**.

Long Term Development

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

- (a) The Civil Engineering and Development Department (CEDD) and PlanD jointly commissioned the “Planning and Engineering Study for Housing Sites in Yuen Long South (YLS) – Investigation”. According to the Revised Recommended Outline Development Plan (RODP) of YLS promulgated in May 2020, the Site falls partly within an area zoned “Local Open Space” (“LO”) and partly within an area zoned “Green Belt (1)” (“GB(1)”).
- (b) The objective of YLS 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 3 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.

9.1.9 Comments of the Project Manager (West), CEDD (PM(W), CEDD):

- (a) He has no objection to the application.
- (b) Based on the preliminary project boundary of the proposed YLS Development, the Site falls within the boundary of the proposed YLS Development – Stage 4. The YLS Development would provide land to meet the medium to long term housing needs of Hong Kong and the detailed implementation programme with phasing and packaging of works for YLS Development – Stage 4 is being formulated.

District Officer’s Comments

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

Her office has not received any comment from the locals.

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

- (a) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (b) Director of Agriculture, Fisheries and Conservation (DAFC); and
- (c) Commissioner of Police (C of P).

10. Public Comments Received During the Statutory Publication Period

On 23.11.2021, the application was published for public inspection. During the first three weeks of the statutory public inspection period, two public comments were received from individuals. One individual objects to the application on the grounds that the proposed use will generate adverse environmental and fire safety impacts to the surrounding area (**Appendix IV-1**). The other individual raises concerns on the progress of compliance with approval conditions of the previous application and opines that approval of the proposed use would hinder the long-term development plans of the area (**Appendix IV-2**).

11. Planning Considerations and Assessments

- 11.1 The application is for proposed temporary shop and services for a period of three years at a site mainly zoned “R(B)1” and partly zoned “R(D)” on the OZP. The planning intention of the “R(B)” zone is primarily for sub-urban medium-density residential developments, while the planning intention of the “R(D)” zone is for improvement and upgrading of existing temporary structures within the rural areas into permanent buildings and for low-rise, low-density residential development. Although the proposed use is not in line with the aforesaid planning intentions, the proposal could serve any such need for shop and services in the area. Whilst the Site falls within an area zoned “LO” and “GB(1)” within Stage 4 of YLS Development, CE/CID, PlanD and PM(W), CEDD have no objection to the application. Approval of the application on a temporary basis of three years would not jeopardise the long-term development of the area.
- 11.2 The surrounding area mainly comprises residential structures/developments and open storage yards (**Plan A-2**). While there are residential structures in the vicinity, the development is small in scale and generally not incompatible with the surrounding uses.
- 11.3 There is no adverse comment from concerned government departments, including C for T, DEP, D of FS and CE/MN, DSD. Adverse traffic, environmental, fire safety and drainage impacts on the surrounding areas are not envisaged. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to address the technical requirements of concerned 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 be advised to follow the relevant environmental mitigation measures in the latest Code of Practice in order to minimise any potential environmental impact on the surrounding areas.
- 11.4 Given that one previous approval for the same use and 12 similar applications have been approved within/straddling the subject “R(B)1” and “R(D)” zones, approval of the current application is generally in line with the Committee’s previous decisions. Although there are five similar applications rejected by the Committee or the Board on review between 2012 and 2021, they were rejected mainly on the grounds of excessive scale and/or remoteness from local clientele and hence not in line with the respective planning intentions. Such considerations are generally

not applicable to the current application which is relatively small in scale and located at a short distance off a local road near existing residences.

- 11.5 There are two public comments objecting to/raising concerns on the application 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 11 and having taken into account the public comments mentioned in paragraph 10 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 14.1.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) no medium or heavy goods vehicles, including container tractors/trailers, as defined in the Road Traffic Ordinance, are allowed to be parked/stored on or enter/exit the Site, as proposed by the applicant, at any time during the planning approval period;
- (b) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (c) the submission of a condition record of the existing drainage facilities on the Site within **3** months from the date of planning approval to the satisfaction of the Director of Drainage Services or of the Town Planning Board by 14.4.2022;
- (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 14.7.2022;
- (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 14.10.2022;
- (f) if any of the above planning condition (a) or (b) 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
- (g) if any of the above planning condition (c), (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.

Advisory clauses

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

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

the proposed use is not in line with the planning intentions of the "R(B)" and "R(D)" zones which are primarily for sub-urban medium-density residential developments in rural areas, and for improvement and upgrading of existing temporary structures within the rural areas into permanent buildings and for low-rise, low-density residential development respectively. 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 annex and plans received on 15.11.2021
Appendix II	Previous Application covering the Site
Appendix III	Similar Applications within/straddling the subject "R(B)1" and "R(D)" zone on the OZP
Appendices IV-1 and IV-2	Public Comments received during the Statutory Publication Period
Appendix V	Recommended Advisory Clauses
Drawing A-1	Vehicular Access Plan
Drawing A-2	Proposed Layout Plan
Drawing A-3	As-built Drainage Plan
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
JANUARY 2022**