

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-TYST/1163

- Applicant** : Exact Win Limited represented by Metro Planning and Development Company Limited
- Site** : Various Lots in D.D. 121 and Adjoining Government Land (GL), Tong Yan San Tsuen, Yuen Long, New Territories
- Site Area** : 4,500 m² (about) (including GL of about 248 m² or 5.5%)
- Lease** : Block Government Lease (demised for agricultural use)
- Plan** : Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/14
- Zoning** : “Residential (Group D)” (“R(D)”)
[restricted to a maximum plot ratio of 0.2 and maximum building height of 2 storeys (6m)]
- Application** : Temporary Animal Boarding Establishment (Dog Kennel cum Dog Recreation Centre) for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission for temporary animal boarding establishment (dog kennel cum dog recreation centre) for a period of 3 years at the application site (the Site) (**Plan A-1a**). Although the applied use is neither a Column 1 or 2 use in the “R(D)” zone, according to the covering Notes of the OZP, temporary use or development of any land or buildings not exceeding a period of three years requires planning permission from the Town Planning Board (the Board) notwithstanding that the use or development is not provided for under the Notes of the OZP. The Site is currently largely vacant and partly occupied by the applied use with planning permission valid until 28.7.2022 (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site is accessible from Long Hon Road to its northeast via a local track (**Drawing A-1 and Plan A-2**). According to the applicant, part of the Site is currently being used as an animal boarding establishment by a charity. Not more than 45 dogs will be kept at the Site between 9:00 a.m. and 7:00 p.m. The dogs will be kept inside enclosed structures (i.e. structures 4 to 7 (**Drawing A-2**)) equipped with soundproofing materials, mechanical ventilation and air-conditioning system.

Not more than 24 dogs will be kept at the Site overnight and the remaining dogs will be transferred back to their owners. Three staff will stay at the Site to take care of the dogs during night time. The applicant pledges that no public announcement system will be used at the Site and no medium or heavy goods vehicles, including container trailer/tractor, will be allowed to access the Site. Plans showing the vehicular access leading to the Site, site layout with tree preservation proposal, as-built drainage facilities and proposed fire service installations (FSIs) submitted by the applicant are at **Drawings A-1 to A-4** respectively.

- 1.3 The Site is the subject of 11 previous applications (No. A/YL-TYST/4, 5, 44, 119, 145, 158, 182, 262, 670, 784 and 968) (details at paragraph 5 below).
- 1.4 The major development parameters of the current application and the previously approved application No. A/YL-TYST/968 are summarised as follows:

Major Development Parameters	Previously Approved Application No. A/YL-TYST/968 (a)	Current Application No. A/YL-TYST/1163 (b)	Difference (b) – (a)
Applied Use	Temporary Dog Kennel cum Dog Recreation Centre for a Period of 3 Years	Temporary Animal Boarding Establishment (Dog Kennel cum Dog Recreation Centre) for a Period of 3 Years	---
Site Area	About 4,500 m ²		---
Total Floor Area (Non-domestic)	About 545 m ²	About 985 m ²	+440 (+80.7%)
No. and Height of Structures	5 • for dog kennel, staff quarter, dog washing facility, site office and toilet (4m, 1 storey)	7 • for dog kennel, staff quarter, toilet, dog washing facility, dog recreation centre and site office (4-4.5m, 1 storey)	+2 (+40%)
No. of Loading/ Unloading Space	Nil	1 (for light goods vehicle) (7m x 3.5m)	+1
No. of Parking Spaces	10 (for private car) (5m x 2.5m each)	8 (for private car) (5m x 2.5m each)	-2 (-20%)
Operation Hours (Period open to the public)	24 hours daily (9:00 a.m. to 7:00 p.m. daily)		---

- 1.5 In support of the application, the applicant has submitted the following documents:
- (a) Application Form with annex and plans received on 2.6.2022 **(Appendix I)**
 - (b) Further Information (FI) received on 5.7.2022 **(Appendix Ia)**
 - (c) FI received on 18.7.2022 **(Appendix Ib)**

- (d) FI received on 21.7.2022
[(b) to (d) exempted from publication and recounting requirements]

(Appendix Ic)

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 has been the subject of two previous planning permissions for animal boarding establishment use since 2016. As additional structures are proposed, a fresh application is submitted.
- (b) The temporary proposal would not jeopardise the long-term planning intention of the area. The scale of the proposal is compatible with the surrounding area.
- (c) The dog kennel will be maintained in a sanitary condition with proper excreta and waste disposal as well as regular pest control. Adequate supplies of potable water will be provided at the Site. The dog kennel will be designed to restrict the entrance of other animals.
- (d) The applicant will follow the revised 'Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites' (Code of Practice). Should the application be approved, a discharge licence under the Water Pollution Control Ordinance would be obtained for effluent discharges. The applied use will not create significant adverse traffic, environmental and drainage impacts to the surrounding areas.

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 the notice to the Ping Shan Rural Committee by registered post. Detailed information would be deposited at the meeting for Members’ inspection. For GL portion, 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 six rejected previous applications (No. A/YL-TYST/119, 145, 158, 182, 262 and 670) and three approved previous applications (No. A/YL-TYST/4, 5 and 44) for various temporary open storage or recycling facility uses, which are not relevant to the current application. The Site is also involved in two

approved previous applications (No. A/YL-TYST/784 and 968) for the same use as the current application. Details of the applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.

- 5.2 Applications No. A/YL-TYST/784 and 968 were both approved with conditions each for a period 3 years by the Rural and New Town Planning Committee (the Committee) of the Board in 2016 and 2019 respectively, mainly on the considerations that there was no known programme for permanent development at the Site; the proposals could provide service to meet any such demand; approval of the applications on a temporary basis would not frustrate the long-term development of the area; and the concerns of relevant government departments could be addressed by imposing approval conditions. For the planning permission under the last application (No. A/YL-TYST/968), all the time-limited approval conditions had been complied with and the planning permission is valid until 28.7.2022.
- 5.3 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 site layout and development parameters (see paragraph 1.4).

6. Similar Application

There is no similar application within the subject “R(D)” zone.

7. Planning Intention

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

8.1 The Site is:

- (a) accessible from Long Hon Road to its northeast via a local road (**Plan A-2**); and
- (b) paved, largely vacant and partly occupied by the applied use with planning permission valid until 28.7.2022 (**Plans A-4a** and **A-4b**).

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

- (a) comprise predominately vacant land/structures and agricultural land with scattered open storage/storage yards, residential structures, parking of vehicles, plant nurseries and graves;
- (b) there are residential structures in the vicinity of the Site with the nearest one located about 60m to its northeast;

- (c) to its southeast across a local road is an area zoned “Green Belt” on the OZP; and
- (d) except for one open storage yard, the other open storage/storage yards and parking of vehicles in the vicinity are suspected unauthorised developments (UDs) subject to enforcement action taken by the Planning Authority.

9. Comments from Relevant Government Departments

All government departments consulted have no objection to or no adverse comment on the application. Their general comments on the application and advisory comments in the Recommended Advisory Clauses are provided in **Appendices III and IV** respectively.

10. Public Comment Received During the Statutory Publication Period

On 10.6.2022, the application was published for public inspection. During the first three weeks of the statutory public inspection period, one public comment was received from the village representative of Tong Yan San Tsuen (in the form of petition letter with 24 signatures, **Appendix V**) objecting to the application on the grounds that the applied use will generate adverse environmental impacts on the surrounding area.

11. Planning Considerations and Assessments

- 11.1 The application is for temporary animal boarding establishment (dog kennel cum dog recreation centre) at the Site zoned “R(D)” on the OZP. 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, and also for low-rise, low-density residential development. Although the applied use is not in line with the aforesaid planning intention, it could serve the demand for such uses in the area. While the Site falls within Yuen Long South Development Stages 2 and 4, the Chief Engineer/Cross-Boundary Infrastructure and Development, Planning Department does not raise objection and the Project Manager (West), Civil Engineering and Development Department has no objection to the application. As such, approval of the application on a temporary basis of three years would not jeopardise the long-term development of the area.
- 11.2 The proposal is generally not incompatible with the surrounding area, which comprises predominantly vacant land/structures with scattered open storage/storage yards (**Plan A-2**).
- 11.3 There is no adverse comment from concerned government departments, including Commissioner for Transport, Director of Environmental Protection, Director of Fire Services and Chief Engineer/Mainland North, Drainage Services Department. 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 below to address the environmental concerns and technical requirements of concerned government departments. The applicant will

be advised to adhere to the latest Code of Practice and to apply for relevant licence(s) where appropriate.

- 11.4 Given that two previous approvals for the same use have been granted to the Site, approval of the current application is generally in line with the Committee's previous decisions.
- 11.5 There is one public comment objecting to the application received 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 11 above and having taken into account the public comment summarised in paragraph 10 above, the Planning Department considers that the temporary animal boarding establishment (dog kennel cum dog recreation centre) could be tolerated for a period of 3 years.
- 12.2 Should the Committee decide to approve the application, it is suggested that the permission shall be valid on a temporary basis for a period of 3 years until 29.7.2025. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval conditions

- (a) all dogs shall be kept inside enclosed structures with soundproofing materials, mechanical ventilation and air-conditioning system, as proposed by the applicant, at all times during the planning approval period;
- (b) no whistle blowing and no public announcement system, portable loudspeaker or any form of audio amplification system is allowed to be used on the Site at any time during the planning approval period;
- (c) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (d) 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 29.10.2022;
- (e) the implementation of the accepted 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 29.1.2023;
- (f) if any of the above planning condition (a), (b) 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; and

- (g) if any of the above planning condition (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 IV**.

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

the applied use is not in line with the planning intention of the "R(D)" zone which is for improvement and upgrading of existing temporary structures within the rural areas through redevelopment of existing temporary structures into permanent buildings, and also for low-rise, low-density residential development. No strong planning justification had 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 reason(s) for rejection should be given to the applicant.

14. Attachments

Appendix I	Application Form with annex and plans received on 2.6.2022
Appendix Ia	FI received on 5.7.2022
Appendix Ib	FI received on 18.7.2022
Appendix Ic	FI received on 21.7.2022
Appendix II	Previous Applications
Appendix III	Government Departments' General Comments
Appendix IV	Recommended Advisory Clauses
Appendix V	Public Comment
Drawing A-1	Vehicular Access Plan
Drawing A-2	Site Layout Plan with Tree Preservation Proposal
Drawing A-3	As-built Drainage Plan
Drawing A-4	FSIs Proposal
Plan A-1a	Location Plan
Plan A-1b	Previous Applications Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo

Plans A-4a and Site Photos
A-4b

PLANNING DEPARTMENT
JULY 2022