

**APPLICATION FOR PERMISSION**  
**UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE**

**APPLICATION NO. A/YL-TYST/1029**

<b><u>Applicant</u></b>	: Well Vision Holdings Limited represented by Metro Planning and Development Company Limited
<b><u>Site</u></b>	: Lots 1023 S.B RP, 1033 S.C, 1034 S.A RP (Part) in D.D. 121 and Adjoining Government Land (GL), Tong Yan San Tsuen, Yuen Long, New Territories
<b><u>Site Area</u></b>	: 158 m <sup>2</sup> (about) (including about 30 m <sup>2</sup> of GL)
<b><u>Lease</u></b>	: Block Government Lease (demised for agricultural use)
<b><u>Plan</u></b>	: Approved Tong Yan San Tsuen Outline Zoning Plan (OZP) No. S/YL-TYST/12
<b><u>Zoning</u></b>	: “Residential (Group B)1” (“R(B)1”) <i>[Restricted to maximum plot ratio of 1, maximum site coverage of 40% and maximum building height of 4 storeys over single-storey car park (15m)]</i>
<b><u>Application</u></b>	: 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 temporary shop and services for a period of 3 years (**Plan A-1a**). According to the Notes of the OZP for the “R(B)1” zone, ‘Shop and Services’ is a Column 2 use which requires planning permission from the Town Planning Board (the Board). The Site is currently mainly occupied by a vacant structure (**Plans A-2, A-4a and A-4b**).
- 1.2 The Site involves 2 previous applications (No. A/YL-TYST/785 and 859) for proposed temporary shop and services (real estate agency) (**Plan A-1b**). The last application (No. A/YL-TYST/859) was approved with conditions for a period of 3 years by the Rural and New Town Planning Committee (the Committee) of the Board on 10.11.2017. All the time-limited approval conditions had been complied with and the planning permission is valid until 10.11.2020. Compared with the last application, the current application is submitted by the same applicant for different shop and services use on a smaller site with similar site layout but different development parameters.
- 1.3 According to the applicant, the proposal is for a store to provide daily necessities

such as canned food, snacks, drinks, toilet tissue etc. The store is mainly to serve the daily necessity needs of nearby residents. Furthermore, no medium or heavy goods vehicles, including container tractor/trailer, will be allowed to enter the Site. Plans showing the site layout, landscape and tree preservation proposal 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 previously approved application and the current application are summarised as follows:

<b>Major Development Parameters</b>	<b>Previously Approved Application No. A/YL-TYST/859</b>	<b>Current Application No. A/YL-TYST/1029</b>	<b>Difference (b)-(a)</b>
Applied Use	Proposed Temporary Shop and Services (Real Estate Agency) for a Period of 3 Years	Proposed Temporary Shop and Services for a Period of 3 Years	Different Shop and Services Use
Site Area	About 168m <sup>2</sup> ( including GL of about 30 m <sup>2</sup> )	About 158 m <sup>2</sup> (including GL of about 30 m <sup>2</sup> )	-10 m <sup>2</sup> (-6%)
Total Floor Area (Non-domestic)	About 70 m <sup>2</sup>	About 144 m <sup>2</sup>	+74 m <sup>2</sup> (+106%)
No. and Height of Structures	2 <ul style="list-style-type: none"> <li>one for real estate agency with toilet (7m, 1 storey)</li> <li>one for water tank and pump room (3.5m, 1 storey)</li> </ul>	3 <ul style="list-style-type: none"> <li>one for store with toilet (7m, 2 storeys)</li> <li>one for water tank (5m, 1 storey)</li> <li>one for pump room (5m, 1 storey)</li> </ul>	+1 (+50%)  +1 storey (+100%)
No. of Parking Space	---	1 (for private car) (5m x 2.5m)	+1
No. of Loading/Unloading Space	---	1 (for light goods vehicle) (7m x 3.5m)	+1
Operation Hours	9:00 a.m. to 8:00 p.m. daily	7:00 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 with annex and plans received on (**Appendix I**) 20.5.2020

- (b) Supplementary Information received on 22.5.2020 (Appendix Ia) providing revised layout plan and clarification on the proposed operation
- (c) Further Information (FI) dated 6.7.2020 clarifying the (Appendix Ib) proposed operation  
*[accepted and exempted from publication and recounting requirements]*

## **2. Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in Part 7 of the Application Form, the Supplementary Information and FI (Appendices I to Ib). They can be summarised as follows:

- (a) The applicant is unable to let the Site for real estate agency use. The current application is submitted for a new tenant's proposal to operate a store at the Site. The proposal would benefit the locals by meeting their need for daily necessities.
- (b) The Site was the subject of two previous planning permissions since 2016. All planning conditions imposed to the last planning application (No. A/YL-TYST/859) had been complied with. There has been no major change in planning circumstances since the approval of the last application.
- (c) The proposed temporary use would not jeopardise the long-term planning intention of the "R(B)1" zone. The development is not incompatible with the surrounding environment including residential developments. A number of similar shop and services have been approved by the Board in the vicinity of the Site, similar treatment should be given to the current proposal.
- (d) There will be insignificant traffic, environmental and drainage impacts arising from the proposal. It is believed that most of the customers will access the Site on foot because of the short distance from the nearby residential developments.

## **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 a notice at the Site and sending the notice to the Ping Shan Rural Committee through registered post. 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 2 previous applications (No. A/YL-TYST/785 and 859) for proposed temporary shop and services (real estate agency) use covering different extent of the Site. Details of the previous applications are summarised in **Appendix II** and the boundaries of the sites are shown on **Plan A-1b**.
- 5.2 Application No. A/YL-TYST/785 was approved with conditions by the Committee in 2016, mainly on the considerations that the temporary approval would not frustrate/jeopardise the long-term planning intention of the “R(B)1” zone/long-term development of the area; not incompatible with the surrounding land uses; and the technical concerns of relevant government departments could be addressed by imposing approval conditions. However, the planning permission was subsequently revoked on 8.10.2017 due to non-compliance with time-limited approval condition.
- 5.3 The last application (No. A/YL-TYST/859) was approved with conditions for a period of 3 years by the Committee on 10.11.2017 mainly on similar considerations as those stated in paragraph 5.2 above. All the approval conditions had been complied with and the planning permission is valid until 10.11.2020.
- 5.4 Compared with the last application (No. A/YL-TYST/859), the current application is submitted by the same applicant for different shop and services use on a smaller site with similar site layout but different development parameters.

## **6. Similar Applications**

- 6.1 There are a total of 10 similar applications (No. A/YL-TYST/445, 473, 622, 709, 767, 799, 820, 915, 940 and 973) for various temporary shop and services with/without eating place or wholesale uses within or straddling the subject “R(B)1” zone. Details of the applications are summarised in **Appendix III** and the locations of the sites are shown on **Plan A-1a**.
- 6.2 Out of these 10 similar applications, one application (No. A/YL-TYST/915) for temporary shop and services (motor-vehicle showroom) was rejected by the Committee in 2018 on the considerations that the proposal was not in line with the planning intention of the “R(B)1” zone; the scale of the proposed motor-vehicle showroom was excessive; and the applicant had failed to demonstrate the need for the proposed development in the area.
- 6.3 Applications No. A/YL-TYST/445, 622, 767 and 940 for temporary carpet shop and wholesale of carpet; application No. A/YL-TYST/473 for temporary retail shop for selling stationery and paper products; application No. A/YL-TYST/709 for proposed temporary eating place (small restaurant) and shop and services (convenience store/supermarket and laundry and real estate agency); applications No. A/YL-TYST/799 and 973 for temporary shop and services (retail shop for hardware accessories); and application No. A/YL-TYST/820 for proposed temporary shop and services (retail shop for metal and home appliances) were all approved with conditions by the Committee between 2009 and 2019 each for a period ranging from 1 to 3 years. The applications were approved mainly on similar considerations that the proposals were not incompatible with the

surrounding environment; would not jeopardise the long-term planning intention of the “R(B)1” zone; no adverse departmental comments; and the departmental concerns on the application could be addressed by imposing approval conditions. However, the planning permissions for applications No. A/YL-TYST/445, 473 and 709 were subsequently revoked due to non-compliance with time-limited approval conditions.

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

7.1 The Site is:

- (a) accessible via a short local track leading from Sha Tseng Road and Tong Yan San Tsuen Road to its north and northwest (**Plans A-2 and A-3**); and
- (b) paved and currently mainly occupied by a vacant structure.

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

- (a) comprises predominantly residential developments/structures intermixed with scattered storage/open storage yards, car parks, construction site, a canteen, an orchard, agricultural land, shrubland and vacant land/structures;
- (b) there are residences nearby with the nearest one located about 20m to the north of the Site (i.e. Windsor Villa);
- (c) to its east is an area zoned “Residential (Group D)” on the OZP; and
- (d) except for two storage yards and a public car park, the other open storage yards, car park and canteen in the vicinity are suspected unauthorised developments (UD) 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 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 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 GL and 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) Within the Site, the GL and Lots 1023 S.B RP, 1033 S.C and 1034 S.A RP in D.D. 121 are currently covered by Short Term Tenancy (STT) No. 3068 and Short Term Waiver (STW) No. 4678 respectively to permit structures erected thereon for the purpose of “Temporary Shop and Services (Real Estate Agency)”.
- (c) Should planning approval be given to the subject planning application, the STW/STT holder(s) will need to apply to her office for modification of the STW/STT conditions where appropriate. 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):

- (a) The land status of the access road/path/track leading to the Site from Tong Yan San Tsuen Road/Shu Tseng Road shall be checked with the lands authority.
- (b) The management and maintenance responsibilities of the access road/path/track should be clarified and consulted with the relevant management and maintenance authorities accordingly.
- (c) The applicant is reminded that sufficient space should be provided within the Site for manoeuvring of vehicles. In addition, no parking, queuing and reverse movement of vehicles on public road are allowed.

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

- (a) Transport Department has proposed road widening works at the entrance of the Site abutting Tong Yan San Tsuen Road. The applicant should note that the traffic to and from the Site may be affected during the course of the road widening works despite that his department will implement the necessary temporary traffic arrangement to minimise the impact.
- (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**

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

- (a) There was no substantiated environmental complaint concerning the Site received in the past three years.
- (b) 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 nuisance 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 development.
- (b) Based on the drainage proposal/planning statement (**Drawing A-3** and **Appendix I**) enclosed in the application, the applicant would maintain the same drainage facilities as those implemented under previous planning application No. A/YL-TYST/859.
- (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/859 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. 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 granted by the Building Authority 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 should be reminded of the detailed comments at **Appendix IV**.

### **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 within an area shown as ‘Road’.
- (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) However, 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 its detailed implementation programme with phasing and packaging of works for YLS Development is being formulated.

### **District Officer’s Comments**

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

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

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

- (a) Director of Agriculture, Fisheries and Conservation (DAFC);



- (b) Chief Engineer/Construction, Water Supplies Department (CE/C, WSD);
- (c) Director of Electrical and Mechanical Services (DEMS); and
- (d) Commissioner of Police (C of P).

## **10. Public Comment Received During the Statutory Publication Period**

On 29.5.2020, the application was published for public inspection. During the first three weeks of the statutory public inspection period, no public comment was received.

## **11. Planning Considerations and Assessments**

- 11.1 The application is for temporary shop and services for a period of 3 years at a site zoned “R(B)1” on the OZP. Although the applied use is not entirely in line with the planning intention of the “R(B)1” zone, which is primarily for sub-urban medium-density residential developments in rural areas, the proposal to operate a store at the Site is intended to serve the neighbourhood and could meet any such demand in the area. Whilst the Site falls within an area shown as ‘Road’ on the Revised RODP of YLS promulgated in May 2020, CE/CID, PlanD does not raise objection to the application and PM(W), CEDD has no objection to the proposed temporary use for 3 years. Approval of the application on a temporary basis of 3 years would not jeopardise the long-term development of the area.
- 11.2 The development is considered not incompatible with the existing uses in the surrounding areas which are predominantly residential developments/structures intermixed with some storages (**Plan A-2**).
- 11.3 There is no adverse comment on the application from concerned government departments, including C for T, DEP and CE/MN, DSD. Furthermore, relevant approval conditions are recommended in paragraph 12.2 to minimise any potential environmental nuisances or to address the technical requirements of other 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 also be advised to follow the latest Code of Practice in order to minimise any potential environmental impact on the surrounding areas.
- 11.4 Given that two previous approvals for shop and services use at the Site have been granted and nine similar applications have been approved in the same “R(B)1” zone, approval of the current application is generally in line with the Committee’s previous decisions. There was one similar application for temporary shop and services (motor-vehicle showroom) rejected by the Committee on the considerations, amongst others, that the scale of the proposed motor-vehicle showroom was excessive, and the applicant had failed to demonstrate the need for the proposed development in the area. However, the current application is for a small-scale local store mainly intended to serve the neighbourhood, hence such considerations are not entirely applicable to the current application.
- 11.5 There is no public comment received on the application during the statutory publication period.

## 12. Planning Department's Views

- 12.1 Based on the assessments made in paragraph 11, 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 10.7.2023. 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 7:00 a.m., as proposed by the applicant, is allowed on the Site during the planning approval period;
- (b) no medium or heavy goods vehicles exceeding 5.5 tonnes, 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 you, at any time during the planning approval period;
- (c) no vehicle is allowed to queue back to or reverse onto/from public road at any time during the planning approval period;
- (d) the existing trees and landscape plantings on the Site shall be maintained at all times during the planning approval period;
- (e) the existing drainage facilities on the Site shall be maintained at all times during the planning approval period;
- (f) the submission of records 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 10.10.2020;
- (g) 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 10.1.2021;
- (h) in relation to (g) 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 10.4.2021;
- (i) if any of the above planning conditions (a), (b), (c), (d) or (e) 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
- (j) if any of the above planning conditions (f), (g) or (h) 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 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 reason(s) for rejection should be given to the applicant.

**14. Attachments**

<b>Appendix I</b>	Application Form with annex and plans received on 20.5.2020
<b>Appendix Ia</b>	Supplementary Information received on 22.5.2020
<b>Appendix Ib</b>	FI received on 6.7.2020
<b>Appendix II</b>	Previous Applications covering the Site
<b>Appendix III</b>	Similar Applications straddling/within the same "R(B)1" Zone on the OZP
<b>Appendix IV</b>	Recommended Advisory Clauses
<b>Drawing A-1</b>	Site Layout Plan
<b>Drawing A-2</b>	Landscape and Tree Preservation Proposal
<b>Drawing A-3</b>	As-built Drainage Plan
<b>Plan A-1a</b>	Location Plan with Similar Applications
<b>Plan A-1b</b>	Previous Applications Plan
<b>Plan A-2</b>	Site Plan
<b>Plan A-3</b>	Aerial Photo

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

**PLANNING DEPARTMENT  
JULY 2020**