

APPLICATION FOR PERMISSION
UNDER SECTION 16 OF THE TOWN PLANNING ORDINANCE

APPLICATION NO. A/YL-KTS/1053

<u>Applicant</u>	:	Light Elegant Limited represented by R-riches Property Consultants Limited
<u>Site</u>	:	Lots 1540 S.C, 1871 S.A and 1871 S.F in D.D. 106, Pat Heung, Yuen Long, New Territories
<u>Site Area</u>	:	About 494m ²
<u>Lease</u>	:	Block Government Lease (demised for agricultural use)
<u>Plan</u>	:	Approved Kam Tin South Outline Zoning Plan (OZP) No. S/YL-KTS/15
<u>Zoning</u>	:	“Agriculture” (“AGR”)
<u>Application</u>	:	Proposed Temporary Shop and Services with Ancillary Facilities for a Period of Three Years and Associated Filling of Land

1. The Proposal

- 1.1 The applicant seeks planning permission for proposed temporary shop and services with ancillary facilities for a period of three years and associated filling of land at the application site (the Site), which falls within an area zoned “AGR” on the OZP (**Plan A-1**). 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 Board. Filling of land within the “AGR” zone also requires planning permission from the Board. The Site is divided into two portions, including the northern portion (about 300m²) which is currently formed, vacant with a temporary structure erected and minor portion covered with overgrown vegetation, and the southern portion (about 194m²) which is currently vacant and covered with overgrown vegetation (**Plans A-2 to A-4**).
- 1.2 The Site is accessible from Pat Heung Road via a local access (**Plans A-1 to A-3**). According to the applicant, the proposed use is for real estate agency. It involves two two-storeys structures (not more than 7m in height) for shop and services and washroom with a total gross floor area (GFA) of about 360m². The proposed operation hours are from 09:00 to 18:00 daily, including public holidays. Two private car parking spaces (5m x 2.5m) (one on each portion of the Site) would be provided. Sufficient manoeuvring space will be provided within the Site to ensure no queuing and turning back of vehicles outside the Site at all time. The applicant

also applies for filling of land for the entire Site with concrete of not more than 0.2m in depth, raising the site level from +16.8mPD to +17.0mPD on the northern portion and from +18.0mPD to +18.2mPD on the southern portion, for site formation of structures and parking/circulation area to meet the operational need (**Drawing A-2**). The site layout plan and land filling plan submitted by the applicant are at **Drawings A-1 and A-2** respectively.

1.3 In support of the application, the applicant has submitted the following documents:

- (a) Application Form with supplementary planning statement (SPS) received on 8.1.2025 **(Appendix I)**
- (b) Further Information (FI) received on 1.4.2025 [#] **(Appendix Ia)**

[#] accepted and not to exempt from publication and recounting requirements

1.4 On 28.2.2025, the Rural and New Town Planning Committee (the Committee) of the Board agreed to defer making a decision on the application for two months as requested by the applicant.

2. **Justifications from the Applicant**

The justifications put forth by the applicant in support of the application are detailed in the Application Form with SPS and FI at **Appendices I and Ia** respectively. They can be summarised as follows:

- (a) The Site is within walking distance from nearby indigenous villages where demand for real estate agency is high. The proposed temporary use could serve such demand in the locality.
- (b) The proposed temporary use will not jeopardize the long-term planning intention of the “AGR” zone and will utilize scarce land resources, as the Site is currently vacant without any agricultural activities. The applicant will also submit application for Short Term Waiver (STW) to the Lands Department (LandsD) for erection of structures at the Site if planning approval was given by the Board.
- (c) Similar applications No. A/YL-KTS/932, 938, 955 and 961 for ‘Shop and Services’ within the “AGR” zones on the same OZP have been approved by the Board. Hence, approval of the current application is in line with the Board’s previous decisions and would not set an undesirable precedent. Besides, given that the proposed use is surrounded by temporary structures for storage use, parking of vehicles and vacant land, it is considered not incompatible with the surrounding areas
- (d) The Site will be paved for site formation of structures and parking/circulation area to meet the operational need. The applicant commits to reinstate the Site upon expiry of the planning permission.
- (e) The relevant Professional Persons Environmental Consultative Committee Practice Notes (ProPECC PNs) would be followed to treat sewage discharge. The applicant will also strictly comply with all environmental protection/pollution control ordinances.

- (f) The proposed use will not induce adverse traffic, environmental and drainage impacts on the surrounding areas with adequate mitigation measures.

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” Requirement under Sections 12A and 16 of the Town Planning Ordinance (TPB PG-No. 31B) by posting site notice and sending notice to Pat Heung Rural Committee. Detailed information would be deposited at the meeting for Members’ inspection.

4. **Background**

The Site is currently not subject to any active planning enforcement action.

5. **Previous Application**

The Site is involved in a previous application No. A/YL-KTS/666 for proposed Houses (New Territories Exempted Houses - Small Houses) which was rejected by the Committee on 5.6.2015. The considerations of this application are irrelevant for the current application due to different use involved. Details of the previous application are summarised in **Appendix II** and its location is shown on **Plan A-1**.

6. **Similar Applications**

There are two similar applications (No. A/YL-KTS/932 and 938) for similar temporary shop and services uses within the same “AGR” zone in the past five years. Both applications were approved with conditions by the Committee in 2022 mainly on the considerations that the temporary approval would not jeopardise the long-term planning intention for the Site; the proposed use was not incompatible with the surrounding land uses; and there was no adverse comment from concerned government departments or technical concerns could be addressed by appropriate approval conditions. Details of the similar applications are summarised in **Appendix II** and their locations are shown on **Plan A-1**.

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

7.1 The Site is:

- (a) accessible from Pat Heung Road via a local track; and
- (b) divided into two portions, including the northern portion (about 300m²) which is currently formed, vacant with a temporary structure erected and minor portion covered with overgrown vegetation, and the southern portion

(about 194m²) which is currently vacant and covered with overgrown vegetation.

- 7.2 The surrounding areas comprise predominantly open storage and storage yards, warehouse, parking of vehicles, rural settlements, scattered residential dwellings, religious institution, grass land and vacant land. A site to the east of the Site is planned for a mosque under application No. A/YL-KTS/910.

8. Planning Intention

- 8.1 The planning intention of the “AGR” zone is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes. It is also intended to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes
- 8.2 According to the Explanatory Statement of the OZP for “AGR” zone, as filling of land may cause adverse drainage and environmental impacts on the adjacent areas, permission from the Board is required for such activities.

9. Comments from Relevant Government Departments

- 9.1 Apart from the government departments set out in paragraph 9.2 below, other 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, if any, are provided in **Appendices III and IV** respectively.
- 9.2 The following government departments have adverse comments on or do not support the application:

Land Administration

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

- (a) has adverse comment on the application;
- (b) the Site comprises Old Schedule Agricultural Lots No. 1540 S.C, 1871 S.A and 1871 S.F in D.D. 106 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;
- (c) LandsD has reservation on the planning application since there is unauthorised structure on Lot No. 1871 S.A in D.D. 106 which is already subject to lease enforcement actions according to case priority. The lots owner(s) should rectify/apply for regularisation on the lease breaches as demanded by LandsD;
- (d) the lot owner(s) shall apply to his office for a STW to permit the structure(s) erected within the private lot(s). The application(s) for STW will be considered by the Government in its capacity as a

landlord and there is no guarantee that it will be approved. The STW, if approved, will be subject to such terms and conditions including the payment of waiver fee and administrative fee as considered appropriate by LandsD. Besides, given the proposed use is temporary in nature, only erection of temporary structure(s) will be considered; and

(e) advisory comments are in **Appendix IV**.

Agriculture and Nature Conservation

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

- (a) does not support the application from agricultural perspective as the Site possesses potential for agricultural rehabilitation;
- (b) the Site falls within the “AGR” zone and is generally vacant with some sundries. Agricultural infrastructures such as road access and water source are available. The Site can be used for agricultural activities such as open-field cultivation greenhouses, plant nurseries, etc.; and
- (c) no comment on the planning application from nature conservation perspective.

10. Public Comments Received During Statutory Publication Periods

On 17.1.2025 and 11.4.2025, the application was published for public inspection. During the statutory publication periods, a total of 4 public comments were received from Kadoorie Farm & Botanic Garden Corporation and an individual, both objecting to the application mainly on the grounds that the proposed use would cause potential impacts on the proposed Agricultural Priority Area (APA) in Shui Tsan Tin and the Board should consider if approving the current application would affect the APA policy by the Government; and the proposed use is a suspected brownfield operation (**Appendix V**).

11. Planning Considerations and Assessments

11.1 The application is for proposed temporary shops and services with ancillary facilities for a period of three years and associated filling of land at the Site zoned “AGR” (**Plan A-1**). Whilst the proposed use is not in line with the planning intention of “AGR” zone and DAFC does not support the application from agricultural perspective, the applicant claims that the proposed use could serve the demand for shop and services in the locality. In view of the above and taking into account the assessment below, there is no objection to the proposed use on a temporary basis for a period of three years with associated filling of land.

11.2 Filling of land within the “AGR” zone requires planning permission from the Board as it may cause adverse drainage and environmental impacts on the surrounding

areas. In this regard, the Chief Engineer/Mainland North of Drainage Services Department and Director of Environmental Protection have no objection to the application from public drainage and environmental perspectives respectively. As the Site is zoned “AGR”, an approval condition requiring the reinstatement of the Site upon expiry of the planning permission so as to uphold the planning intention of the “AGR” zone and restore the greenery of the area is recommended should the Committee decide to approve the application. The applicant has also committed to reinstate the Site to an amenity area upon expiry of the approval period.

- 11.3 The proposed use is considered not incompatible with the surrounding areas, which comprise predominantly open storage and storage yards, warehouse, parking of vehicles, rural settlements, scattered residential dwellings, religious institution, grass land and vacant land (**Plan A-2**). The Chief Town Planner/Urban Design and Landscape of Planning Department (PlanD) has no adverse comment on the application from landscape planning perspective and considers that the proposed use is not incompatible with the surrounding landscape character and significant adverse landscape impact on landscape resources within the Site arising from the proposed use is not anticipated.
- 11.4 Regarding DLO/YL, LandsD’s concern on the unauthorised structures erected within the Site, the applicant will be advised to liaise with LandsD on these land administration matters should the Committee approve the application. The applicant also commits to submit application for STW upon planning approval given (**Appendix Ia**). Other relevant government departments consulted including the Commissioner for Transport and Director of Fire Services have no objection to or no adverse comment on the application. To address the technical requirements of concerned departments, appropriate approval conditions are recommended in paragraph 12.2 below. It is also recommended to advise the applicant to follow the latest “Code of Practice on Handling the Environmental Aspects of Temporary Uses and Open Storage Sites” to minimise any potential environmental impacts on the surrounding areas.
- 11.5 There are two approved similar applications within the same “AGR” zone in the vicinity of the Site in the past five years as stated in paragraph 6 above. Approving the current application is in line with the Committee’s previous decisions.
- 11.6 For the public comments mentioned in paragraph 10 above, the departmental comments and planning considerations 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, PlanD 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 three years until 23.5.2028. The following conditions of approval and advisory clauses are also suggested for Members’ reference:

Approval conditions

- (a) 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 23.11.2025;
- (b) in relation to (a) 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 23.2.2026;
- (c) in relation to (b) above, the implemented drainage facilities on the site shall be maintained at all times during the planning approval period;
- (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 23.11.2025;
- (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 23.2.2026;
- (f) if the above planning condition (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;
- (g) if any of the above planning condition (a), (b), (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; and
- (h) upon expiry of the planning permission, the reinstatement of the site, including the removal of hard paving and fill materials, and grassing of the site to the satisfaction of the Director of Planning or of the Town Planning Board.

Advisory clauses

The recommended advisory clauses are attached in **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 use with associated filling of land is not in line with the planning intention of the "AGR" zone which is primarily to retain and safeguard good quality agricultural land/farm/fish ponds for agricultural purposes, and to retain fallow arable land with good potential for rehabilitation for cultivation and other agricultural purposes. There is no strong planning justification given in the submission for 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 SPS received on 8.1.2025
Appendix Ia	FI received on 1.4.2025
Appendix II	Previous application and Similar Applications
Appendix III	Government departments' general comments
Appendix IV	Recommended advisory clauses
Appendix V	Public comments
Drawing A-1	Site layout plan
Drawing A-2	Land filling plan
Plan A-1	Location plan
Plan A-2	Site plan
Plan A-3	Aerial photo
Plans A-4	Site photos

**PLANNING DEPARTMENT
MAY 2025**