

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

APPLICATION NO. A/SK-HC/279

<u>Applicant</u>	:	Asiakey Limited
<u>Site</u>	:	Lots 865 RP, 868 RP, 871, 872, 873, 874, 875 RP & 876 RP in D.D. 244 and adjoining Government Land, Ho Chung, Sai Kung
<u>Site Area</u>	:	About 770m ² (including 20m ² of Government land)
<u>Lease</u>	:	Private Land (about 97%) Old Schedule Agricultural Lots held under Block Government Lease Government land (about 3%)
<u>Plan</u>	:	Approved Ho Chung Outline Zoning Plan (OZP) No. S/SK-HC/11
<u>Zonings</u>	:	(i) “Green Belt” (“GB”) (about 99%) (ii) “Village Type Development” (“V”) (about 1%)
<u>Application</u>	:	Temporary Place of Recreation, Sports or Culture for a Period of 3 Years

1. The Proposal

- 1.1 The applicant seeks planning permission to use the application site (the Site) for place of recreation, sports or culture on a temporary basis for a period of three years (**Plan A-1**). The Site is the subject of a previous Application No. A/SK-HC/252 for the same use submitted by the same applicant. The application was approved with conditions by the Rural and New Town Planning Committee (the Committee) of the Town Planning Board (the Board) on a temporary basis for a period of 2 years instead of 5 years as applied on 13.5.2016. The planning approval was revoked on 13.11.2016 due to non-compliance with approval conditions relating to the submission of water supplies for fire fighting and fire service installations proposals, and landscape and tree preservation proposal. The Site is currently occupied by the applied use without valid planning permission.
- 1.2 The proposal involves three one-storey (not more than 3.5m in height) structures (Structures No. 1, 2 and 3 on **Drawing A-1**) with a total covered area of about 400m². Structure No. 1 is used for office and staff restroom (about 45m²). Structure No. 2 is used for recreation hall (about 300m²). Structure No. 3 is used for storeroom and guestroom (about 55m²). The remaining area is used as open

garden landscaped with trees and planters (**Plans A-4a to A-4c**). The applicant indicates that the Site would be used mainly for holding events such as wedding ceremony, private celebrations and other private recreational uses. The operation hours are from Monday to Sunday (9:00 a.m. to 11:00 p.m.). The Site will accommodate about 180 seats. The current proposal is the same as the proposal under the approved application No. A/SK-HC/252.

- 1.3 According to the applicant, shuttle bus service would be provided for event visitors with pick up/drop off point at the existing bus layby at Hiram's Highway (**Plan A-2**). No vehicle parking space would be provided at the Site. The parking demand of the development would be served by the Nam Pin Wai Public Carpark and Heung Chung Road Public Carpark in the vicinity of the Site (**Plan A-2**). Upon closure of the Nam Pin Wai Carpark for development of a sewerage treatment plant by Drainage Services Department, additional shuttle bus service would be provided. Loading/unloading activities will be carried out near Mok Tse Che Road.
- 1.4 The applicant has submitted fire service installations proposals at **Appendix Ia**.
- 1.5 The site plan and landscape proposal submitted by the applicant are at **Drawings A-1 and A-2**.
- 1.6 In support of the application, the applicant has submitted the following documents:
 - (a) Application form dated 24.10.2017 (**Appendix I**)
 - (b) Supplementary Documents (**Appendix Ia**)
 - (c) Further Information (FI) dated 15.2.2018 providing a revised Traffic Impact Assessment (TIA) (*not exempted from publication and recounting requirements*) (**Appendix Ib**)
 - (d) FI dated 4.6.2018 providing responses to comments to Transport Department (TD) (*exempted from publication and recounting requirements*) (**Appendix Ic**)
 - (e) FI dated 6.7.2018 providing response to comments to TD, replacement pages of the TIA and clarifications on the business operation (*exempted from publication and recounting requirements*) (**Appendix Id**)
- 1.7 On 22.12.2017 and 6.4.2018, the Committee agreed to defer making a decision on the application for two months each, as requested by the applicant, to allow time for preparation of FIs in response to departmental comments. The applicant submitted FIs as detailed in paragraph 1.5 above. The application is scheduled for consideration by the Committee at this meeting.

2. Justifications from the Applicant

The justifications put forth by the applicant in support of the application are detailed in **Appendix Ia**. They can be summarised as follows:

- (a) The renovated buildings and provision of landscaping at the Site has improved the environment and enhanced the visual quality of the Site and the surrounding environment.

- (b) There is no demolition of the old structures or addition of new structures at the Site.
- (c) To minimize traffic impacts, shuttle bus services to and from Kowloon is provided. There are also a bus stop and two parking lots in the vicinity.
- (d) The subject development is a passive recreational use with natural features which is in line with the planning intention of the “GB” zone.
- (e) Approval of the application would help to promote youth entrepreneurship in Hong Kong.
- (f) A landscape and tree preservation proposal has been submitted. The applicant has hired a full time gardener on site to perform regular irrigation, fertilisation and maintenance of the new planting features, as well as general upkeep of surrounding vegetation around the Site.
- (g) The findings of the TIA indicate that the road network in the vicinity of the Site would be able to cope with the development and considered acceptable in traffic viewpoint.

3. Town Planning Board Guidelines

The Town Planning Board Guidelines No. 10 (TPB-PG No. 10) for ‘Application for Development within “GB” zone under section 16 of the Town Planning Ordinance’ (the TPB Guidelines) is relevant to this application and attached at **Appendix II**.

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

For the portion of Private Land

- 4.1 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 obtaining consent from and giving notifications to the current land owner(s). Detailed information would be deposited at the meeting for Members’ inspection.

For the portion of Government Land

- 4.2 The “owner’s consent/notification” requirement as set out in the Town Planning Board Guidelines on Satisfying the “Owner’s Consent/Notification” Requirements under Section 12A and 16 of the Town Planning Ordinance (TPB GB-No. 31A) is not applicable to the portion of Government land within the Site.

5. Previous Application

- 5.1 There is one previous application (No. A/SK-HC/252) for the same use at the Site submitted by the same applicant. The application was approved by the

Committee on 13.5.2016, mainly on grounds that the application generally meets the criteria under the TPB Guidelines No. 10 (TPB-PG No. 10) and there is no adverse impact on landscape, environment, traffic and infrastructure aspects. Besides, approval on a temporary basis for a period of 2 years instead of 5 years as applied was given, taking into account that the Nam Pin Wai Public Carpark, which the applicant proposed to be used for serving the parking needs of the development, would be closed for development of sewerage facility in the future. The planning permission was subject to approval conditions including no operation between 11 p.m. to 9 a.m., the submission and implementation of water supplies for fire fighting and fire services installations proposals, and the submission and implementation of a landscape and tree preservation proposal. The planning permission was revoked on 13.11.2016 due to non-compliance with approval conditions on submissions of water supplies for fire fighting and fire service installations proposals, and landscape and tree preservation proposal.

6. Similar Application

There is no similar application in vicinity of the Site within the Ho Chung OZP.

7. The Site and Its Surrounding Areas (Plans A-1 and A-2, Aerial Photo on Plan A-3 and Site Photos on A-4a to A-4c)

7.1 The Site is:

- (a) currently occupied by three one-storey structures;
- (b) currently used as a place for holding wedding events without valid planning permission;
- (c) partly within the Ho Chung Site of Archaeological Interest; and
- (d) accessible from Wo Mei Hung Min Road.

7.2 The surrounding areas have the following characteristics:

- (a) to the south across Wo Mei Hung Min Road are some 2-3 storeys village houses zoned "V" on the OZP; and
- (b) to the north and west are slopes covered with natural vegetation and further west is the Tsuen Tung Film & Television Limited.

8. Planning Intention

- (a) The planning intention of the "GB" zone is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlets. There is a general presumption against development within this zone.

- (b) The planning intention of the “V” zone is to designate both existing recognized villages and areas of land considered suitable for village expansion. Land within this zone is primarily intended for development of Small Houses by indigenous villagers. It is also intended to concentrate village type development within this zone for a more orderly development pattern, efficient use of land and provision of infrastructures and services.

9. **Background**

The Site was the subject of a previously approved planning application for temporary place of recreation for a period of 2 years. Planning permission of which was revoked on 13.11.2016. The use in the Site is under investigation. Should there be sufficient evidence to form an opinion that the use on site constitutes an unauthorised development under the Town Planning Ordinance, appropriate planning enforcement action will be taken by the Central Enforcement and Prosecution Section of Planning Department.

10. **Comments from Relevant Government Departments**

- 10.1 The following government departments have been consulted and their views on the application and public comments received are summarised as follows:

Land Administration

- 10.1.1 Comments of the District Lands Officer/Sai Kung, Lands Department (DLO/SK, LandsD):

- (a) there were previously some temporary structures with registered squatter control numbers on the Site. However, the squatter control numbers have been deleted in April 2015 for irregularities against the Squatter Control Policy;
- (b) as the existing structures are unauthorized structures in breach of the lease conditions, warning letters were issued by his office to the owners of the subject lots in August and September 2015 requiring them to rectify the breach. As the breach has not yet been purged, the warning letters have been registered against the lots in the Land Registry according to the established procedures;
- (c) small portions of Lots No. 868 RP and 871 in D.D. 244 and adjacent government land fall within the Ho Chung Site of Archaeological Interest (**Plans A-1 and A-2**);
- (d) if the application is approved by the Board, the lot owners will need to apply to her office for a short term waiver (STW) in respect of the lots and a short term tenancy (STT) of the concerned government land to effect the subject proposal. However, there is no guarantee that such STW and STT applications will be approved by the Government. If such applications are approved, they will be subject to such terms and conditions including payment of administrative

fees, waiver fee and rent as the Government considers appropriate;
and

Traffic

10.1.2 Comments of the Commissioner for Transport (C for T):

from traffic viewpoint, he considers that the development is tolerable under the following condition:

‘implementation of traffic arrangement upon the closure of Nam Pin Wai Public Carpark, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board’;
and

10.1.3 Comments of the Chief Engineer/Consultants Management, DSD (CE/CM, DSD):

a sewage treatment plant namely Wo Mei Sewage Treatment Plant (WMSTP) is planned to be constructed at the car park near the Nam Pin Wai Road Roundabout. The construction is anticipated to commence in 2019.

Environment

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

there has not been any environmental complaint on the Site in the past 3 years.

Urban Design and Visual

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

as there is no change in circumstances compared with the previous application (i.e. A/SK-HC/252), she has no comment on the application from urban design and visual impact perspectives.

Landscape

10.1.6 Comments of the CTP/UD&L, PlanD:

- (a) no objection to the application from landscape planning point of view;
- (b) with reference to aerial photos, the structures within the Site have been existed since 2003, and some plantings were provided within the Site. The use is not entirely incompatible to the surrounding environment. Significant changes or disturbances to the existing landscape character and resources arising from the use are not anticipated.

- (c) should the Board approve the application, she would recommend the following landscape condition to be included in the permission:

‘submission and implementation of a landscape proposal and tree preservation proposal to the satisfaction of the Director of Planning or of the Town Planning Board’; and

- (d) it is noted from Section 9C of the submission (**Appendix Ia**) that landscape enhancement includes potted plants, planting in movable/removable pots and artificial plants (as display in nature). All planting should be in the ground or fixed planters with an open-bottom. Planting in movable containers/pots/artificial plants is not considered as permanent/proper landscape treatment.

Sewerage

10.1.7 Comments of the DEP:

in view of the nature of the development, septic tank and soakaway system is considered an acceptable means for collection, treatment and disposal of the sewage provided that its design and construction follow the requirements in EPD's Practice Note for Professional Person (ProPECC) PN 5/93 “Drainage Plans subject to Comment by the Environmental Protection Department” and are duly certified by an Authorized Person.

Drainage

10.1.8 Comments of the Chief Engineer/Mainland South, Drainage Services Department (CE/MS, DSD):

- (a) he has no in-principle objection to the application from drainage maintenance viewpoint, provided that adequate stormwater drainage collection and disposal facilities will be provided in connection with the development to deal with the surface runoff of the Site or the same flowing on to the Site from the adjacent areas without causing any adverse drainage impacts or nuisance to the adjoining areas; and
- (b) there is no public sewer connection available in the vicinity of the Site, views and comments from the DEP should be sought regarding the sewage disposal arrangement of the development.

Building Matters

10.1.9 Comments of the Chief Building Surveyor/New Territories East 2 and Rail, Buildings Department (CBS/NTE2 & Rail, BD):

- (a) as the existing structure at the Site are not New Territories Exempted House, he has reservation on the application under Building Ordinance (BO);
- (b) all unauthorized building works/structures, if any, should be removed according to the provisions of the BO; and
- (c) the granting of the planning approval should not be construed as an acceptance of the unauthorized structures on the Site under the BO. Enforcement action may be taken to the removal of all unauthorized works in the future.

Nature Conservation

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

the application is to seek planning permission to continue the present use of a "Place of Recreation" at the Site. The Site is largely formed and occupied by existing structures. He has no strong view on the application from nature conservation point of view.

Water Supply

10.1.11 Comments of the Chief Engineer/Construction, Water Supplies Department (CE/Construction, WSD):

- (a) no objection to the application; and
- (b) for provision of water supply to the development, the applicant may need to extend his/her inside services to the nearest suitable government water mains for connection. The applicant shall resolve any land matter (such as private lots) associated with the provision of water supply and shall be responsible for the construction, operation and maintenance of the inside services within the private lots to WSD's standards.

Fire Safety

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

- (a) based on the submitted information, he has no specific comment on the submitted proposal subject to fire service installations and water supplies for firefighting being provided to the satisfaction of the Fire Services Department; and

- (b) detailed fire services requirements will be formulated upon receipt of formal submission of general building plans. The arrangement of Emergency Vehicular Access shall comply with Section 6, Part D of the Code of Practice for Fire Safety in Buildings 2011 whenever the building works fall within the admit of the Buildings Department.

Public Order

10.1.13 Comments of the Commissioner of Police (C of P):

- (a) no objection to the application; and
- (b) there were 1 case of 'Complaint Noise' and 1 case of 'Vehicle Obstruction' at the subject location between 1.1.2018 and 30.6.2018. As such, the applicant should comply with Cap. 400 'Noise Control Ordinance' and impose noise control measures to minimize disturbance to residences in the vicinity. Besides, the applicant should provide sufficient parking spaces.

Licencing

10.1.14 Comments of the Director of Food and Environmental Hygiene (DFEH):

- (a) no comment on the application; and
- (b) there is no application for restaurant or food factory licence at the Site.

District Officer's Comments

10.1.15 Comments of the District Officer/Sai Kung, Home Affairs Department (DO/SK, HAD):

- (a) no comment on the application; and
- (b) local views should be fully considered.

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

- (a) Chief Engineer (Works), Home Affairs Department;
- (b) Head (Geotechnical Engineering Office), Civil Engineering and Development Department;
- (c) Chief Highway Engineer/New Territories East, Highways Department; and
- (d) Antiquities and Monuments Office, Leisure and Cultural Services Department.

11. Public Comments Received During Statutory Publication Periods

- 11.1 On 30.10.2017 and 27.2.2018, the application and 1st FI were published for public inspection. During the statutory public inspection periods, 70 public

comments were received. A full set of the public comments will be deposited at the meeting for Members' inspection.

11.2 69 commenters including the Sai Kung Rural Committee, Resident Representative of Wo Mei Tsuen and individuals of the public (**Appendix IIIa**) (50 comments are in standard forms (**Appendices IIIb** and **IIIc**)) object to/have adverse comments on the application on the following grounds:

- (a) the Site for wedding events has created noise and nuisance to the local residents and destroyed the tranquil environment;
- (b) the traffic generated from the development has created congestion and illegal parking problems in the area;
- (c) the Site has been illegally used for holding events and ceremonies;
- (d) the Site should be rezoned to "Government, Institution or Community" ("G/IC") to fulfil the need for community facilities; and
- (e) the TIA of the application does not reflect the development proposal in the area.

11.3 An individual of the public has no comment on the application (**Appendix III d**) and indicates that local views should be considered.

12. Planning Considerations and Assessments

12.1 The applicant seeks planning permission to use the Site for place of recreation on a temporary basis for a period of 3 years. The Site is largely zoned "GB" (about 99%) with a minor portion zoned "V" (about 1%) on the OZP. The proposal is to use the Site as venue for holding various activities including wedding events, private celebrations and other private recreational uses. The use is not entirely in conflict with the planning intention of the "GB" zone which is primarily to define the limits of urban and sub-urban development areas by natural features and to contain urban sprawl, as well as to provide passive recreational outlets. The Site is the subject of a previous application No. A/SK-HC/252 for the same use approved by the Committee on 13.5.2016.

12.2 The last planning application No. A/SK-HC/252 was approved by the Committee mainly on grounds that the application generally meets the criteria under the TPB Guidelines No. 10 (TPB-PG No. 10) and no adverse impact on landscape, environment, traffic and infrastructure aspects are anticipated. Planning approval on a temporary basis of 2 years instead of 5 years as applied was granted taking into account that the Nam Pin Wai Public Carpark, which the applicant proposed to be used for serving the parking needs of the development, would be closed for development of sewerage facility in the future. The current proposal is the same as the scheme in the last approved application, except new traffic arrangement is proposed in the TIA. The applicant proposes to provide additional shuttle bus service upon closure of the Nam Pin Wai Carpark in 2019. In this regard, C for T considers that the development is tolerable with an approval condition requiring the applicant to implement the proposed traffic arrangement upon the closure of Nam Pin Wai Public Carpark.

12.3 The development with one-storey structures and landscaped garden is considered not incompatible with the surrounding environment comprising village houses

and vegetated slopes. It is not anticipated to have adverse landscape impact and will not overstrain the infrastructure capacity including sewerage, drainage and water supply of the area. Relevant government departments consulted including DEP, CE/MS, DSD and WSD have no objection to/adverse comment on the application.

- 12.4 The last planning permission was revoked due to non-compliance with the approval conditions on the submission of water supplies for fire fighting and fire service installations proposals, and landscape and tree preservation proposal. The applicant has shown genuine effort in compliance with the conditions by submitting proposals, but the proposals were not accepted by D of FS and CTP/UD&L, PlanD. The applicant has also submitted revised fire service installations proposal and landscape proposal with the current application, D of FS and CTP/UD&L, PlanD have no objection to application subject to approval conditions as recommended in para. 13.2 below. To closely monitor the progress on compliance with the approval conditions, shorter compliance periods are recommended. Any non-compliance with the approval condition would result in revocation of the planning permission and any unauthorized development on-site would be subject to enforcement action by the Planning Authority. The applicant should be advised that sympathetic consideration may not be given to any further application if the planning permission is revoked again due to non-compliance of approval conditions.
- 12.5 Public comments object to/raise concerns on the application are mainly on grounds of adverse environmental and traffic impacts, and nuisance generated by the development. In this regard, C for T has no objection to the TIA submitted by the application and the proposed traffic arrangement measures. No environmental complaint was received by DEP related to the Site in the past 3 years. While 1 complaint on noise and 1 complaint on vehicle obstruction have been received during January to June in 2018, C of P has no objection to the application and advises that the applicant should comply with the Noise Control Ordinance and impose noise control measures to minimize disturbance to residences in the vicinity and to provide sufficient parking spaces. To minimize possible impact on the area, approval conditions have been recommended to enforce the operation hours of 9 a.m. to 11 p.m. as proposed by the applicant and on implementation of traffic arrangement measures.

13. Planning Department's Views

- 13.1 Based on the assessment made in paragraph 12 and having taken into account the public comments mentioned in paragraph 11, the Planning Department considers that the temporary place of recreation under application could be tolerated for a period of 3 years with shorter compliance period to monitor the progress on compliance with approval conditions.
- 13.2 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 3.8.2021. The following conditions of approval and advisory clauses are also suggested for Members' reference:

Approval Conditions

- (a) no operation between 11:00 p.m. to 9:00 a.m., as proposed by the applicant, is allowed during the planning approval period;
- (b) implementation of traffic arrangement measures upon the closure of Nam Pin Wai Public Carpark, as proposed by the applicant, to the satisfaction of the Commissioner for Transport or of the Town Planning Board;
- (c) the submission of water supplies for fire fighting and fire service installations proposals within **3** months from the date of planning approval to the satisfaction of the Director of Fire Services or of the Town Planning Board by 3.11.2018;
- (d) in relation to (c) above, the implementation of water supplies for fire fighting and fire service installations proposals 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 3.2.2019;
- (e) the submission of landscape and tree preservation proposal within **3** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 3.11.2018;
- (f) in relation to (e) above, the implementation of landscape and tree preservation proposals within **6** months from the date of planning approval to the satisfaction of the Director of Planning or of the Town Planning Board by 3.2.2019;
- (g) if 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
- (h) if any of the above planning conditions (c), (d), (e) or (f) 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 attached at **Appendix IV**.

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

the development is not in line with the planning intention of the "GB" zone, which is primarily for defining the limits of urban and sub-urban development areas by natural features and to contain urban sprawl as well as to provide passive recreational outlet. There is a general presumption against development within this zone. There is no strong justification for a departure from the planning intention.

14. Decision Sought

- 14.1 The Committee is invited to consider the application and decide whether to grant or refuse to grant permission.
- 14.2 Should the Committee decide to approve the application, Members are invited to consider the approval conditions and advisory clauses, if any, to be attached to the permission, and the period of which the permission should be valid on a temporary basis.
- 14.3 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.

15. Attachments

Appendix I	Application form dated 24.10.2017
Appendix Ia	Supplementary Documents
Appendix Ib	FI dated 15.2.2018
Appendix Ic	FI dated 4.6.2018
Appendix Id	FI dated 6.7.2018
Appendix II	The Town Planning Board Guidelines No. 10 (TPB-PG No. 10) for ‘Application for Development within “GB” Zone under section 16 of the Town Planning Ordinance
Appendices IIIa to IIId	Public comments received
Appendix IV	Advisory Clauses
Drawing A-1	Site Plan
Drawing A-2	Landscape Proposal
Plan A-1	Location Plan
Plan A-2	Site Plan
Plan A-3	Aerial Photo
Plans A-4a to A-4c	Site Photos

**PLANNING DEPARTMENT
AUGUST 2018**