

Application Number: **06/23/0751/CU** - [Click here to see application webpage](#)

Site Location: Anchor Gardens Car Park, Great Yarmouth, NR30 2ER

Site Location Plan: See Appendix 1

Proposal: Proposed change of use of vacant land adjacent the kiosk for use as seating area for the retail kiosk. Installation of glass balustrade alongside Anchor Gardens, erection of canopies over seating.

Applicant: Mrs R Ellis

Case Officer: Lucy Smith

Parish & Ward: Nelson Ward

Date Valid: 26th October 2023

Expiry date: 21th December 2023

Committee referral: Connected application – GYBC is land owner.

Procedural note: This application was reported to the Monitoring Officer as an application submitted on land owned by the Borough Council, for determination by the Borough Council as Local Planning Authority. The application was referred to the Monitoring Officer for their observations on 21/11/23, to afford the Monitoring Officer an opportunity to check the file ensure they are satisfied that it has been processed normally and that no other members of staff or Councillors have taken part in the Council's processing of the application other than staff employed within the LPA as part of the determination of this application. Any discrepancies will be raised by the Monitoring Officer prior to the meeting.

RECOMMENDATION:**APPROVE SUBJECT TO CONDITIONS****REPORT****1. The Site**

- 1.1 The application site is sited to the east of Marine Parade forming the car park between Anchor Gardens and Pirates Cove Adventure Golf. The car park currently includes Anchor Gardens Café and a kiosk fronting the Parade. An application has been submitted for the replacement of the kiosk, and this application relates to the ancillary seating to both sides of the proposed kiosk.
- 1.2 Marine Parade is the main tourism area of Great Yarmouth and the surrounding uses are predominantly visitor based, with a number of kiosks and diners sited along the west of Marine Parade amongst the visitor attractions such as Joyland and the Sea Life Centre adjacent to the beach. Many of these existing kiosk do have a small level

of seating outside the premises. The site does fall within Conservation Area no.16 'Seafront' and lies opposite 'The Empire', a Grade II Listed building.

2. The Proposal

- 2.1 The proposed external seating will form two terrace seating areas to either side of the kiosk, formed of buff brick paving. Canopies would extend over the seating, with glass balustrading enclosing the areas.

3. Site Constraints

- 3.1 The site falls within the development limits of Great Yarmouth, and within the designated "Great Yarmouth Sea Front area".
- 3.2 The site falls within a Conservation Area and is within the setting of "The Empire", and there are a number of other listed buildings further along the parade.
- 3.3 The site is within Flood Zone 3a, and within a flood warning area.
- 3.4 The site is adjacent to the Coastal Change Management Area.

4. Relevant Planning History

- 4.1 06/23/0752/F: Removal of existing seafood retail kiosk; Erection of replacement kiosk with associated bin storage enclosure – pending consideration
- 4.2 06/23/0753/A: Installation of 4no. externally-illuminated vinyl fascia signs and 2no. externally-illuminated menu boards – pending consideration

5. Consultations

The public consultation period for this application continues until 24th November, slightly later than the publication of this report to Committee. This report details all comments received at the time of submission to the Committee, and if any further comments are received they will be presented to the Committee in an Update Report and/or verbal presentation at the meeting.

5.1. Statutory Consultees

CONSULTEE: NCC Highways

No objection subject to recommended condition to secure no part of the structure to overhang the highway.

Officer comment / response:

The condition recommended as part of this consultee response is considered reasonable and necessary to ensure the structure does not cause any issues with highway safety.

CONSULTEE: Conservation Officer

No objection to this proposal. I am not clear if the photo example shows an illuminated border at the top of the sign; it would be preferable if there is no illumination of this type on the sign.

Officer comment / response:

These comments mainly relate to an accompanying advertisement consent application, which is considered under application ref. 06/23/0753/A, which is also to be heard at this committee.

CONSULTEE: Environmental Services

No objection.

CONSULTEE: Norfolk Constabulary

Although raising no objection, makes comments as summarised below:

- Confirmation is sought that seating, canopy roof and temporary screening proposed will be removed when business is closed as not to attract unwanted attention out of hours.
- seating furniture/balustrades/canopies to be stored away when unit closed
- Bins to be securely fixed
- Specification of roller shutters
- Encourage installation of good quality physical security fittings
- Encourage alarm system to be installed

Officer comment / response:

These comments have been considered and the applicant has confirmed that the balustrading and canopy roof would be permanent features and not movable, but that the seating could be stored, and it would be preferable to fix to the terrace if considered necessary, due to the minimal amount of storage area.

6. Publicity & Representations received

Consultations undertaken: Site notices (x2) and Press advert

Reasons for consultation: Conservation Area

6.1. Ward Member – Cllr(s) Michael Jeal and Kerry Robinson Payne

At the time of writing no comments received.

6.2. Public Representations

At the time of writing no public comments have been received.

7. Relevant Planning Policies

The Great Yarmouth Core Strategy (adopted 2015)

- Policy CS6: Supporting the local economy.
- Policy CS9: Encouraging well-designed, distinctive places.
- Policy CS10: Safeguarding local heritage assets.
- Policy CS13: Protecting areas at risk of flooding and coastal change.

The Great Yarmouth Local Plan Part 2 (adopted 2021)

- Policy GY6: Great Yarmouth Seafront Area
- Policy A1: Residential amenity
- Policy R6: Kiosks and stalls
- Policy E1: Flood Risk
- Policy E5: Historic environment and heritage.

8. Other Material Planning Considerations

National Planning Policy Framework (July 2021)

- Section 4: Decision Making
- Section 6: Building a strong, competitive economy
- Section 12: Achieving well-designed places
- Section 16: Conserving and enhancing the historic environment

9. Planning Analysis

- 9.1. Legislation dictates how all planning applications must be determined. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 9.2. Section 70(2) of the Town and Country Planning Act 1990 (as amended) states: *In dealing with an application for planning permission the authority shall have regard to—*
- (a) the provisions of the development plan, so far as material to the application,*
(aza) a post-examination draft neighbourhood development plan, so far as material to the application,
(b) any local finance considerations, so far as material to the application, and
(c) any other material considerations.

This is reiterated at paragraphs 2 and 47 of the National Planning Policy Framework.

Main Issues

The main planning issues for consideration include:

- Principle of development
- Consideration of Heritage Impacts
- Flood Risk
- Residential amenity

ASSESSMENT

Proposal summary:

The proposal relates to new external seating areas ancillary to a proposed replacement kiosk on Marine Parade, Great Yarmouth.

10. Principle of Development

- 10.1 The application site is situated on Marine Parade amidst the main visitor attractions. To the east is the coastline with key tourist attractions both to the north and the south. The site is within a flood zone and the Great Yarmouth Seafront Conservation Area.
- 10.2 The proposal is for ancillary seating adjacent to a replacement kiosk to be used for use class E purposes. Policy CS6 encourages the development of small-scale businesses and supporting local visitor economies, whilst policy GY6 supports food and drink uses within the designated Great Yarmouth seafront area.

Assessment against Policy R6 – Kiosks and Stalls

- 10.3 Policy R6 of the Local Plan Part 2 (2021) relates specifically to kiosks and stalls and states that developing these within Great Yarmouth Seafront Area, as well as other tourist areas, is acceptable in principle, subject to demonstrating that:

“a. the siting of the proposal, including the curtilage of the kiosk or stall and associated street furniture, does not obstruct either local footways, promenades and esplanades;

b. the design of the kiosk or stall is sympathetic to the surrounding environment, paying particular attention to local street scenes and where applicable, conservation areas, listed buildings and key views;

c. the cumulative impact of the proposal, including any clustering of such uses or particular types of uses on the local area, are not significantly adverse; and

d. adequate provision is made for:

- operational refuse storage out of sight; and*
- litter bin(s) for customers.”*

And the policy advises that where necessary, conditions may be imposed on proposals to restrict the amount and extent of any external seating, tables, signage, etc.

- 10.4 In regard to criteria a), the proposed seating terraces are in line with the kiosk's front elevation, and would not extend into the adjacent promenade. It is acknowledged that the seating is proposed to extend slightly into Anchor Gardens to the north, which also falls within the same land ownership as the site, however by virtue of the nature of the width of the existing path into the gardens, sufficient footway is retained. It is considered that to impose a condition to restrict the extent of the seating area would be reasonable, as requested by NCC Highways.
- 10.5 For criteria b), it is acknowledged that there are already commercial kiosks in the area including to the northern car park of the Marina Centre. This proposal reflects the appearance of this kiosk, which also has external seating, ensuring continuity along the seafront. It is noted that the proposal would remove some vegetation, including shrubs and hedging, from anchor gardens in order to extend the seating area. Although

this landscaping is considered to benefit the appearance of the wider area and appearance of the conservation area, the extent of removal would be minimal, and the overall proposals, when viewed together as a replacement kiosk with ancillary seating, would be considered to improve the existing structure and setting. As such, the design and appearance are considered appropriate and sympathetic to the wider conservation area, as also in accordance with CS9 of the Core Strategy.

- 10.6 In consideration of criteria c), the site falls within 'Great Yarmouth Seafront Area' where the Council aims to encourage quality year-round tourism, acknowledging that food and drink uses form a compatible use in this area. The existing kiosk does not currently benefit from external seating, however a number of the other kiosks, including the existing kiosks to the north of the application site, and Anchor Gardens Café, do have small areas of external seating for customers to use. This is considered typical of the seafront area, with a large footfall along the parade in the summer months, and would not be considered to contribute to a clustering with adverse impacts.
- 10.7 Criteria d) is addressed by the proposed use of new refuse stores and management of the kiosk under consideration as part of application 06/23/0752/F.

11. Impact on Heritage Assets

- 11.1 The site is within the no16 Seafront Conservation Area and as such the Local Planning Authority must have regard to section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires special attention to be paid to preserving or enhancing the character and appearance of the Conservation Area. The site is also within the setting of Grade II listed building "The Empire", and as such section 66 of the Act, requiring the decision maker to have special regard to preserving the setting and features of any listed building, is also relevant.
- 11.2 Policy CS10 of the Core Strategy requires the safeguarding of local heritage assets, through conserving and enhancing their significance, and policy E5 of LP Part 2 requires development proposals within conservation areas to take into account the special and distinctive character of the area which contributes to its significance.
- 11.3 The external seating area extends to either side of the proposed replacement kiosk, and would alter views of the site, particularly from the north, where some vegetation would be replaced by the northern seating terrace, with bollards to be removed and a decorative urn to be moved, which is considered to result in 'less than substantial harm' to the overall appearance of the conservation area. The seating to the south of the kiosk would have less of an impact, replacing part of the existing car park. Although it is considered necessary to request further details relating to the movement of street furniture and replacement planting required for the seating to the north, to ensure this appropriate in terms of highway safety and to ensure any appropriate mitigation takes place, it is considered that this can take place without adversely impacting the conservation area to an unacceptable degree. It is considered that this will not have a substantial impact, and as such can be addressed by condition.
- 11.4 The NPPF requires consideration of the impact of proposed development on the significance of a designated heritage asset. Where a development proposal will lead to 'less than substantial' harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where

appropriate, securing its optimum viable use. In this balance, the harm caused to the conservation area by the removal of the vegetation is considered to be very low on the 'less than substantial' scale of harm, and the public, and economic, benefit of providing a replacement facility for a small-scale business, with external seating to encourage more custom in line with nearby food outlets, is considered to outweigh that less than substantial harm. The proposals when considered as a whole would consist of an improvement of the existing kiosk and its setting, and by extension, an improvement to the overall character and appearance of the conservation area.

12. Flood Risk

- 12.1 The site falls within flood zone 3a, where there is a high probability of flooding from the sea. Whilst this has been a consideration under the application for the replacement kiosk, this application for external seating does not cause significant concerns over being impacted by flood risk as it does not comprise a building that would be susceptible to flood damage. Whilst introducing the public as users of the seating areas would increase the flood risk to the public, this is not considered a significantly material increase, and change of use applications do not need to be subject to the sequential test assessment process.
- 12.2 It is nevertheless considered necessary to ensure the seating areas are subject to the same flood risk protections as the new kiosk, so it is proposed to impose conditions which ensure the seating areas are managed in accordance with the flood evacuation plan and used only in association with the kiosk within application 06/23/0572/F.

13. Residential Amenity

- 13.1 There are no immediate adjacent residential properties which would be impacted by users of the external seating area. The proposed use falls within Use Class E(A), and a restrictive condition is recommended under the replacement kiosk application to retain the kiosk in this use. As a cold-food kiosk, the proposal would be considered to only be open in the day-time, rather than any late-night use where use of the external seating area may result in noise. The aforementioned condition will ensure the area is only used on conjunction with the kiosk, so minimising noise impacts.

14. Conclusion and Recommendation

- 14.1 The proposal consists of external seating ancillary to a proposed replacement kiosk. The overall proposals are considered to consist of a more permanent improvement of the long-established kiosk use. The proposal is considered to be of appropriate design, and would not adversely impact the character of the conservation area or setting of the nearby listed building. The proposal would not obstruct the promenade or public highway, nor present any adverse impacts in regard to residential amenity.
- 14.2 Having considered the details provided, the application is considered to comply with policies CS6, CS9, CS10 and CS13 from the adopted Core Strategy, and policies GY6, A1, R6, E1 and E5 from the adopted Local Plan Part 2.

RECOMMENDATION:

It is recommended that application ref. 06/23/0751/CU should be APPROVED, subject to the following proposed conditions:

- 1 The development must be begun not later than three years beginning with the date of this permission.

The reason for the condition is :-

Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development shall be carried out in accordance with the following plans received by the Local Planning Authority on the 26th October 2023:

- Proposed Block Plan
- Proposed Plans and Elevation;

And revised plan received on the 14th November 2023:

- Revised Site Location Plan

The reason for the condition is :-

For the avoidance of doubt.

- 3 No part of the proposed structure (the balustrade, its posts and foundations) shall overhang or encroach upon highway land at any time.

The reason for the condition is :-

In the interests of highway safety.

- 4 There shall be no use of the seating areas hereby permitted until the proposed seating and screening features have first been fixed in place in accordance with the approved details within the application. The features shall thereafter be retained in situ in accordance with the details, for the duration of the use of this permission.

The reason for the condition is :-

For avoidance of doubt, in the interests of public amenity and to maintain the appearance of the Conservation Area.

- 5 There shall be no commencement of use of the development (the seating areas) hereby permitted until details have first been submitted to and approved in writing by the Local Planning Authority in respect of the replacement street furniture and planting to be provided in place of the proposed seating to the north of the kiosk.

The reason for the condition is :-

For the avoidance of doubt and to ensure the satisfactory development of the site.

- 6 There shall be no use of the development hereby permitted (the seating areas) other than in association with the use and operation of the adjoining retail kiosk the subject of permission 06/23/0752/F, and any amendments thereto.

The use of the seating areas shall be subject to the same flood risk management and evacuation procedures as are required by conditions of the adjoining site as required within permission 06/23/0752/F.

In the event that the approved retail kiosk building should be removed or the use therein be discontinued, the seating areas shall cease to be used and all apparatus and furnishings shall be removed within 1 month of the cessation of the kiosk use or removal of the building, and the area shall be restored to its former condition as existed prior to the commencement of the development hereby permitted within the same period.

The reason for the condition is :-

For avoidance of doubt, in the interests of public amenity, to ensure the use corresponds to the principal use of the approved development, to ensure the appropriate safety and management of patrons in the event of flooding, and in the interests of maintaining the character and appearance of the Conservation Area.

Informative Notes:

1. Advice regarding works in the public highway.

Appendices:

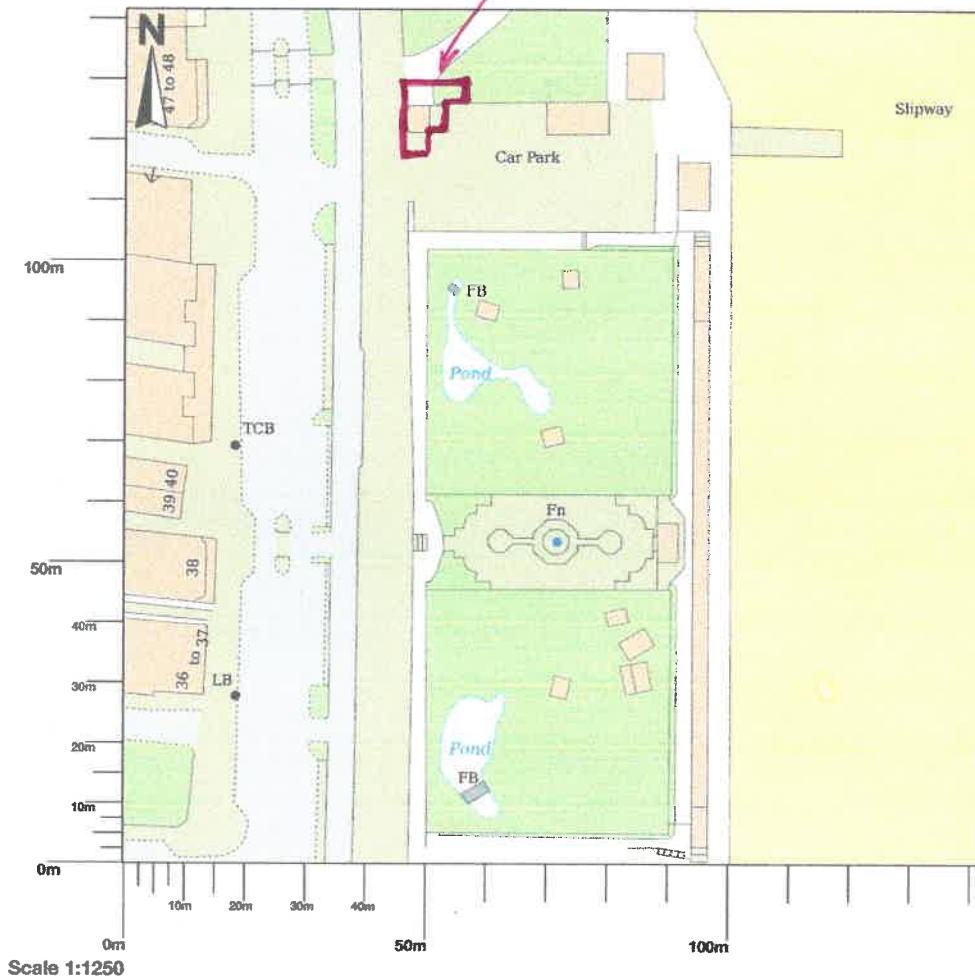
1. Site Location Plan



**UK
Planning
Maps**

Empire Kiosk

THE SITE



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