

Application Number: **06/23/0752/F** - [Click here to see application webpage](#)

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

Site Location Plan: See Appendix 1

Proposal: Removal of existing seafood retail kiosk; Erection of replacement kiosk with associated bin storage enclosure.

Applicant: Mrs R Ellis

Case Officer: Lucy Smith

Parish & Ward: Nelson Ward, Great Yarmouth

Date Valid: 13th October 2023

Expiry date: 8th 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 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. This application relates to the replacement of the kiosk building in a similar siting and of a similar scale.
- 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. The site does fall within Conservation Area no.16 'Seafront' and lies opposite 'The Empire', a Grade II Listed building.
- 1.3 The existing kiosk previously accommodated "Perry's Ice Cream" which has since moved to a newly built kiosk on the car park to the north of the Marina Centre. The

proposed kiosk would match the appearance of this new kiosk and accommodate “Perry’s Sea Food Kiosk”.

2. The Proposal

- 2.1 The proposal is to remove the existing building and provide a replacement. The proposed replacement consists of a permanent purpose-built kiosk building with a buff brickwork plinth, white render walls and flat roof. The size and siting are similar to existing, extending 5m by 4.1m, with a bin storage enclosure proposed to the rear. The servery is proposed to remain to the west of the kiosk as existing.
- 2.2 This application is accompanied by two additional applications for a change of use to provide a seating area adjacent to the kiosk, and an advertisement application to include signage.

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 06/23/0751/CU: 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 – 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 : Local Highways Authority

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

Officer comment / response:

This application relates to the replacement of the kiosk building only, however is accompanied by application reference 06/23/0751/CU, which relates to seating area and canopies, which the above comment is considered more relevant to. Conditions can be used to ensure the kiosk doors do not overhang or open over the highway.

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 it would be considered appropriate to secure a condition requiring details of security features within this application. Committee is advised that the glass screens are said to be permanent features and are a matter of consideration in associated application 06/23/0751/CU.

CONSULTEE: Environment Agency

No comments received to date. Any comments will be provided to the meeting.

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 GSP1: Development Limits.
- Policy GY6: Great Yarmouth Seafront Area
- Policy A1: Residential amenity
- Policy R6: Kiosks and stalls
- Policy R7: Food and drink amenity.
- 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
- Design
- Consideration of Heritage Impacts
- Flood Risk
- Amenity

ASSESSMENT

Proposal summary:

The proposal relates to the replacement of an existing 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 a replacement kiosk with use proposed under use class E. The site falls within the development limits where development will be supported in principle subject to compliance with other relevant policies in the development plan, as stated by policy GSP1. Policy CS6 encourages the development of small-scale businesses and supporting local visitor economies.

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), this application relates to full permission for the replacement of the kiosk only, although it is acknowledged that a further application relates to increasing the curtilage to allow for ancillary seating. The proposed kiosk is sited in a similar position as the existing kiosk, which is stepped back slightly from the adjacent promenade, and does not obstruct any footways.
- 10.5 The proposed seating terraces are to be set in line with the front elevation, and it is considered that imposing a condition to restrict the extent of the seating area would be reasonable, however this is assessed in the relevant application (06/23/0751/CU).
- 10.6 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. Marine Parade is characterised by its tourism appeal which often provides colourful designs. The overall appearance of the scheme is considered to be of a good quality, and is not considered to have an adverse impact on the Conservation Area. The design and scale is similar to the existing kiosk and is considered sympathetic to the wider Conservation Area. In accordance with Policy CS9 the design responds to the nearby landmarks. It is considered that criteria b) is satisfied.
- 10.7 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. Although there are a number of food and drink uses in this area, they are spread between tourism attractions such as the pier, Joyland, the arcades and adventure golf, and are not considered to represent a clustering of such uses in the local area, and neither is it considered that it would result in a significantly adverse cumulative impact. Additionally, it is acknowledged that this application presents a replacement of an existing small-scale use with the same use being continued, so there should be minimal additional impact.
- 10.8 For criteria d), provision for bins and unloading has been made to the rear of the kiosk, where they would be obscured from the promenade, but still visible due to the removal of vegetation from the north boundary. No details have been submitted for the elevations of the bin enclosures, and as such these details will be secured by condition. As requested by Norfolk Constabulary, the bins should be securely fixed to discourage crime. Although there is no indication of public bins being provided on site, there are a number of bins lining Marine Parade by virtue of the tourist location.

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 replacement kiosk is considered to represent an improvement in terms of appearance. Due to the colourful and varied character of this area, and the prevalence of food and drink outlets, the proposal would not be considered to any additional adverse impact to either the significance of the Conservation Area or the setting of "The Empire". Accordingly, the Conservation Officer has raised no objection in regard to the replacement building.
- 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, it is this Officer's consideration that there is no level of 'less than substantial harm' caused by the development, but if the decision maker were to consider there to be a level of harm then it is recommended that any harm would be minimal and the public, and economic, benefit of providing a replacement facility for a small scale business is considered to outweigh any 'less than substantial' harm.

12. Flood Risk

- 12.1 The site falls within flood zone 3a, where there is a high probability of flooding from the sea. Policies do require consideration of flood risk for new development, and the NPPF states that whilst applications for some minor development should not be subject to the sequential or exception tests, even those proposals should still meet the requirements for site-specific flood risk assessments.
- 12.2 However, it is acknowledged that the application proposes a replacement of an existing kiosk with negligible floorspace increase which would be considered a 'de minimis' amount. By virtue of the nature of the proposal, which in flood risk terms is categorised as 'less vulnerable' development, it would not be reasonable to request a flood risk assessment for this application, however it is recommended that a flood response plan is provided by condition attached to any permission.

13. Residential Amenity

- 13.1 Policies A1 seeks to protect nearby residential amenity and policy R7 "Food and Drink" specifically aims to prevent the cumulative impact of clusters of food and drink uses and adverse effects, including the impact of noise and general disturbance, smells, litter, late night activity, parking and highway safety and refuse storage.
- 13.2 No opening hours have been included with the application. Although the proposed use would be a seafood kiosk, likely to be mainly open within daytime hours, it is acknowledged that there are a number of uses within Class E which would potentially provide later opening hours. As such, it is recommended that a condition is imposed on any permission to require the kiosk to be retained in use class E(A), for the retail

sale of goods, other than hot food, so that the Council can retain control over the use, and remove the need to control the opening hours at this stage.

14. Conclusion and Recommendation

- 14.1 The proposal consists of a replacement kiosk, upgrading the appearance and usability of an existing long-established kiosk. The proposal is considered to be of appropriate design, and would not adversely impact the character of the Seafront Conservation Area or setting of the nearby Grade II 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 if subject to the recommended conditions, is considered to comply with policies CS6, CS9, CS10 and CS13 from the adopted Core Strategy, and policies GSP1, GY6, A1, R6, R7, E1 and E5 from the adopted Local Plan Part 2.

RECOMMENDATION:

It is recommended that application ref. 06/23/0752/F 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 13th October 2023;
 - Site Location Plan
 - Block Plan
 - Plans & Elevations as Proposed

The reason for the condition is :-

For the avoidance of doubt.

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), the development hereby permitted shall not be used for any other purposes than those falling within Class E(a) of the Town and Country Planning (Use Class Order) 1987 (as amended), without first receiving the prior express permission of the Local Planning Authority.

The reason for the condition is:-

To retain the use for the purpose proposed, to ensure the use reflects the use considered, and to ensure there is no unacceptable impact on residential amenity.

- 4 There shall be no use of the development hereby permitted until details of the bin enclosure, including elevational drawings and refuse capacity, have first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the details as approved which shall be retained as such thereafter.

The reason for the condition is:-

For the avoidance of doubt and to ensure the satisfactory development of the site and in the interests of ensuring the appropriate appearance of the surrounding Conservation Area.

- 5 There shall be no use of the development hereby permitted until details of security fittings, including details of shutters, alarm system and bin fixing, have first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the details as approved which shall be retained as such thereafter.

The reason for the condition is:-

For the avoidance of doubt and to ensure the satisfactory development of the site, to minimise potential for fear of crime and disorder, and in the interests of residential amenity.

- 6 There shall be no commencement of use of the development hereby permitted until a flood response plan has first been submitted to and approved in writing by the Local Planning Authority. The flood response plan shall include information which confirms the development has signed up to the Environment Agency's Flood Warnings Direct Service, shall include appropriate evacuation plans and mitigation measures, and the approved flood response plan shall be made available to all future occupiers of the site thereafter.

The reason for the condition is :-

In the interests of minimising the risk of flooding to occupants of the development.

- 7 At no time during the operation of the development hereby permitted shall there be any structures, doors or other openings left hanging over or opening out over the public highway.

The reason for the condition is :-

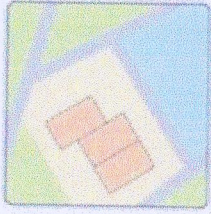
In the interests of highways and public safety.

Informative Notes:

1. Advice regarding works in the public highway.

Appendices:

1. Site Location Plan



**UK
Planning
Maps**

Empire Kiosk

