

# Development Management Committee Report



**Committee Date:** 21 February 2024

Application Number	06/23/0647/VCF - Click <a href="#">here</a> to see application webpage
Site Location	Former Ice House, Bridge Road, Southtown, Great Yarmouth, NR31 0HY
Proposal	Variation of Conditions 2 and 5 of pp 06/20/0642/F (Change of use to multi-functional training and educational venue for circus with fabrication space for equipment) - Amendment to approved plans to revise layout by relocating proposed external staircase and internal lift.
Applicant	Mr J Mackintosh
Case officer	Ellie Nutman
Parish & Ward	Southtown and Cobholm Ward
Date Valid	27 December 2023
Expiry Date	29 February 2024
Reason at committee	This is a connected application affecting land which the Borough Council has a legal or financial interest in.
Procedural notes	This application was reported to the Monitoring Officer as an application submitted for development on land the Borough Council has an interest in for determination by the Borough Council as Local Planning Authority. The application was referred to the Monitoring Officer for their observations on 13/02/24, to afford the Monitoring Officer an opportunity to check the file and 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.

## **SUMMARY OF RECOMMENDATION: GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS**

### **1. The Site**

- 1.1 Application 06/20/0642/F was approved on 14<sup>th</sup> April 2021 for the change of use to multi-functional training and educational venue for circus use with fabrication space for equipment.
- 1.2 This application seeks to vary the permission through amending Conditions 2 and 5 of the permission. The changes proposed are to amend the approved plans to revise the layout by relocating the proposed external staircase and internal lift.

- 1.3 This site is 731 sqm and is located behind the retail unit Matalan. Its north-east elevation faces the River Yare. The site is located inside the development limits for Great Yarmouth.
- 1.4 The Ice House is a Grade II listed building (list entry ref no. 1096794) and is within the No.3 Hall Quay Conservation Area.
- 1.5 Officers consider that this proposal would amend Conditions 2 and 5 without changing the description of the original permission's proposal and as such the proposal would remain within the scope of a 'minor material amendment' which can be made under Section 73 of the Town and Country Planning Act 1990.

## **2. The Proposal**

- 2.1 The proposal is for the Variation of Condition 2 and 5 of 06/20/0642/F for the amendment to approved plans to revise the layout by relocating proposed external staircase and internal lift.
- 2.2 The amended drawings submitted with this application show where the external staircase and internal lift is proposed to be relocated.

## **3. Site Constraints**

- 3.1 The site lies within the development limits of Great Yarmouth and the Great Yarmouth Waterfront Area CS17.
- 3.2 Policy CS17 seeks to support development which utilises the heritage assets of the area, converting buildings to other uses where appropriate.
- 3.3 The site is also located within Flood Zone 3.

## **4. Relevant Planning History**

- 4.1 There have been numerous planning applications over recent years related to the change of use of the building.

### Relevant Planning History

- 4.2 06/20/0642/F  
Change of use to multi-functional training and educational venue for circus with fabrication space for equipment.  
APPROVED 14 April 2021
- 4.3 06/20/0643/LB  
Change of use to multi-functional training and educational venue for circus with fabrication space for equipment.  
APPROVED 14 April 2021
- 4.4 06/22/0499/CD  
Discharge of conditions 3, 5 and 8 of pp. 06/20/0642/F - and condition 4 of pp. 06/20/0643/LB - flood plan, phase 2 contamination report and details of internal balcony, external platform, exterior lighting, exterior joinery, new openings and details of installation of new services.  
APPROVED 06 June 2023

4.5 **06/23/0719/LB**

Alterations to facilitate change of use to multi-functional training venue with extension to provide WCs and plant room, external balcony, stairs and heat pumps and internal mezzanine: Amendment to plans approved by listed building consent 06/20/0643/LB to revise layout by relocating proposed external staircase and internal lift.

THIS APPLICATION IS PENDING CONSIDERATION.

**5. Consultation Responses**

5.1 Environmental Health

**No objection.**

5.2 Historic England

**No objection.**

5.3 Conservation Officer

**No objection.**

- 5.3.1 Summary of response: This application is a welcome amendment to previously approved applications 06/20/0643/LB and 06/20/0642/F. The proposed amendments provide improved circulation routes and Conservation has no objection subject to a condition being imposed requiring development carried out with the further details/ specification.

**6. Publicity & Representations**

- 6.1 Consultations undertaken: Site notice posted on the 26th of January 2024 and the Consultation period expires on the 16th of February 2024.

6.2 Ward Members – Cllr Newcombe & Waters-Bunn

- 6.2.1 No comments received.

6.3 Public Representations

- 6.3.1 No public comments have been received.

**7 Relevant Planning Policies**

7.1 The Great Yarmouth Core Strategy (adopted 2015)

- Policy CS9: Encouraging well-designed, distinctive places.
- Policy CS10: Safeguarding local heritage assets.
- Policy CS17: Regenerating Great Yarmouth's Waterfront

7.2 The Great Yarmouth Local Plan Part 2 (adopted 2021)

- Policy GSP1: Development Limits
- Policy E1: Flood Risk.
- Policy E5: Historic environment and heritage
- Policy A1: Amenity

## 8. Other Material Planning Considerations

National Planning Policy Framework (Dec 2023)

Section 16 - Conserving and Enhancing the Historic Environment

National Planning Practice Guidance topics

Historic environment

Planning (Listed Buildings and Conservation Areas) Act 1990

Section 72 (1)

Section 66(1)

## 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.*

Main Issues

9.3 The main planning issues for consideration include:

- Principle of development
- Character and appearance
- Heritage and conservation
- Other matters

## 10. Assessment

10.1 The variation of Conditions 2 and 5 is the amendment to approved plans to revise layout by relocating proposed external staircase and internal lift.

10.2 This application is made under Section 73 of the Town and Country Planning Act 1990 (as amended), which allow applications to be made for permission to develop without complying with a condition(s) previously imposed on a planning permission providing that the development would not require planning permission in its own right and there is no conflict with, for example, pre-commencement conditions where development has

commenced. The Local Planning Authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide that the original condition(s) should continue.

- 10.3 In deciding an application under Section 73 of the Town and Country Planning Act 1990, the Local Planning Authority may only consider the question of the conditions subject to which planning permission should be granted. A complete re-consideration of the proposal cannot be undertaken. As a result, only the conditions applied for can be considered, providing that they do not alter the overall development as applied for (as detailed in the original description of development).

#### Principle of Development

- 10.4 The principle of the development was established through the grant of planning permission under reference 06/20/0642/F.
- 10.5 On balance, it is considered the amended form of development is still consistent with the general terms and operation of the original permission and the proposed amendments applied for comply with the general aims of relevant policies CS9 and CS10.

#### Impact on the previous permission

- 10.6 The proposed variation revises the layout by relocating the proposed external staircase and internal lift.
- 10.7 The external staircase is proposed to be relocated from the right side of the north east elevation to the left side of the north-east elevation. This will result in the entrance to the site/drop-off area presenting a significantly more open space. The internal lift will be relocated adjacent to the north-east wall of the building, which opens up the ground floor whilst also providing a more private and discrete area for users of the building who need to access the wheelchair lift. The relocation of both the staircase and lift will result in improved circulation routes within the building and will have a positive impact on the ease of access throughout the building.
- 10.8 Policy CS9 supports proposals of a high standard of quality. Policy CS10 expects developments to preserve and enhance heritage assets, and supports proposals which bring them back into beneficial use. Officers consider that the proposal is a 'minor material amendment' which has a limited impact on the character and appearance of the area and maintains the high quality of design approved under 06/20/0642/F whilst also resulting in an improvement in the accessibility of the building for those with disabilities. Accordingly, officers consider that the proposal accords with Policies CS9 and CS10.
- 10.9 Notwithstanding that the proposed changes are minor material amendments, the proposed relocation of the lift and staircase are considered acceptable in design terms. The effects on the surrounding conservation area and listed building itself are discussed below.

#### Heritage and Conservation

- 10.10 The site lies within No.3 Hall Quay Conservation Area. The Ice House is a Grade II listed building (Listing Ref No. IOE01/10002/28) and contributes to the historic setting of the area as a reminder of Great Yarmouth's once-thriving fishing industry.

#### Impact on the Conservation Area

- 10.11 Section 72(4) of the Listed Building and Conservation Area Act 1990, requires Local Planning Authorities in the exercise, with respect to any buildings or other land in a Conservation Area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
- 10.12 The building positively contributes to the character and appearance of the Conservation Area, and it can be considered that the proposed amendments will not harmfully alter or impact the appearance of this area. The Ice House's east elevation, which includes a balcony area, will be most visible when viewed from the east, from across the river.
- 10.13 The changes proposed under this application to alter the balcony area will not result in any negative impacts on the character and appearance of the area and will instead result in a more open and inviting space as the external staircase is moved to the other side, away from the highway and entrance to the site.

#### Impact on the Listed Building

- 10.14 Section 66(1) of the Listed Buildings Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the Council is required to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses.
- 10.15 The proposed amendments are considered to cause little to no harm to the listed building itself, and conditions imposed will ensure that the details of the proposed amendments are managed accordingly, in order to preserve the historic features of the building.

#### Assessment of harm

- 10.16 It can be argued that the proposal preserves and enhances both the listed building, conservation area and surrounding setting through the use of the imposed conditions, but the public benefits that are provided by the proposal must be significant enough to outweigh any adverse impacts, regardless of the level of harm.
- 10.17 Paragraph 205 of NPPF states that when considering the impact of a proposed development significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 10.18 As set out in paragraph 208 of the NPPF, 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.
- 10.19 The proposed amendments will amount to only a very small level of 'less than substantial' harm to the designated heritage assets. For the development to be considered acceptable, the application must demonstrate that public benefits can outweigh the harm, which is considered under the planning balance section of this report.

#### Impact upon Amenity

- 10.20 Policy A1 of the Local Plan Part 2 supports proposals where they protect or promote a high standard of amenity to ensure suitable living environment in the locality, and planning permission will only be granted where the development would not lead to an excessive or unacceptable impact on the amenities of the occupiers of existing and anticipated development in the locality in terms of the outlined criteria, including noise.
- 10.21 The relocation of the external staircase will not result in any increased overlooking compared to the previous permission and therefore it can be considered that the proposed amendments will have no unacceptable effects on the impact on the amenity of the area.

#### Flood Risk

- 10.22 The application site is situated within a Flood Zone 3 area, 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.
- 10.23 However, it is acknowledged that this application proposes a variation of conditions of pp. 06/20/0642/F, in which a flood plan was required as per Condition 3 of the permission which was partially discharged under 06/22/0499/CD. Therefore, the proposal would continue to comply with Policy E5 if any new permission granted is also subject to being operated in accordance with the approved Flood Plan as was previously required under condition 3.

#### Other Matters

- 10.24 Whilst some conditions have been discharged or part-discharged others remain live and unresolved. Any permission granted will need to ensure new conditions are imposed to reflect these changes should planning permission be granted.

Condition on 06/20/0642/F	Original Requirement	Post Modification	Proposed Condition
1	3 years to commence	Commence 7 <sup>th</sup> July 2024	1
2	Accordance with plans	Amended under 06/23/0647/VCF	2
3	Flood plan	The development must be undertaken in accordance with details approved by 06/22/0499/CD	3
4	Historic features & Archaeology	Retained - reimpose	4
5	Discrete elements of designs to be agreed	To be undertaken in accordance with details received and further details where they are still outstanding	5
6	Materials	Retained with revised plan numbers	6
7	Preservation of historic features	Implement approved details prior to occupation	7

8	Contamination investigations and mitigation measures	Development to be undertaken in accordance with details approved under 06/22/0499/CD	8
9	Contamination not previously identified	Retained - reimpose	9
10	Construction hours	Retained – reimpose	10
11	Measures to protect air quality	Retained - reimpose	11
12	Noise report and mitigation strategy	Retained - reimpose	12

#### Local Finance Considerations

- 10.25 Under Section 70(2) of the Town and Country Planning Act 1990 the Council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application. Local finance considerations are defined as a government grant such as new homes bonus, or the Community Infrastructure Levy (which is not applicable to the Borough of Great Yarmouth). Whether or not a local finance consideration is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision on the potential for the development to raise money for a local authority, for example. There do not appear to be any planning-related local finance considerations linked to this development.

#### **11. The Planning Balance**

- 11.1 The proposal seeks amendments related to the plans approved under 06/20/0642/F to revise the layout by relocating the proposed external staircase and internal lift.
- 11.2 The amendments will result in improved circulation routes and will preserve and enhance the historic character of the conservation area and in addition the proposed developments preserve the character and appearance of the listed building and conservation area.
- 11.3 In terms of environmental impacts it can be considered that any potential harm associated with the development can be mitigated by conditions.
- 11.4 Due to the improvement in the visual appearance of the building, the improved circulation routes and accessibility within the building, it is considered that any level of less than substantial harm which is caused by the proposed amendments will be outweighed by the public benefit that is provided as a result.

#### **12. Conclusion**

- 12.1 As set out above, the proposal is considered to be acceptable, and it is recommended for approval.
- 12.2 Having considered the details provided, the application is considered to comply with policies CS9 and CS10 from the adopted Core Strategy, and policies GSP1, A1, E5 and E1 from the adopted Local Plan Part 2.



- 12.3 The proposal is considered to be acceptable and it is recommended for approval. The proposed amendments to the layout of the building will improve the circulation. The change in the layout will not result in there being unacceptable impacts caused to the listed building and historic setting and therefore, subject to the retained conditions from pp 06/20/0642/F and the conditions to be varied under this application, approval is recommended.

### 13. Recommendation

It is recommended that the application ref. 06/23/0647/VCF should APPROVED subject to the conditions listed below:

#### Conditions

##### Time limit

1. The development must be begun not later than 14<sup>th</sup> April 2024.

Reason: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004 and to ensure commencement begins within the same timescales as required by the original parent planning permission 06/20/0642/F.

##### Development to accord with approved plans and details.

2. The development shall be carried out in accordance with the following amended plans received under this variation of conditions application (06/23/0647/VCF) on the 27<sup>th</sup> December 2023:

Amended Plans Approved under 06/23/0647/VCF:

- 225-PP-01 Site Location
- 225-PP-23-D Ground Floor Plan – Proposed Amendment
- 225-PP-24-E First Floor Plan – Proposed Amendment
- 225-PP-25-A Roof Plan – Proposed Amendment
- 225-PP-26-A North Elevation – Proposed Amendment
- 225-PP-27-A South Elevation – Proposed Amendment
- 225-PP-28-D East Elevation – Proposed Amendment
- 225-PP-29-A West Elevation – Proposed Amendment

and the approved plans submitted under 06/20/0642/F listed below:

- 225-PP-32 Sections Drawing
- Rev. 225-PP-33-A Section through showing services received 19 January 2021
- 225-PP-43 to 50 Construction drawings
- 225-PP-61 to 63 North Side Extension details.

Reason: For the avoidance of doubt.

#### Flood plan

3. The development hereby permitted shall be carried out throughout the construction phase in strict accordance with the approved Flood Plan details which were submitted to and approved by the Local Planning Authority as part of condition discharge application 06/22/0499/CD, and shall thereafter be operated in accordance with the Flood Plan for the duration of the use of the development.

Reason: To ensure that mitigation measures are undertaken as the property is located within an area at risk of flooding.

#### Historic Features

4. During the works, if hidden historic features or archaeology are revealed they should be retained in-situ. Works shall be halted in the relevant area of the building and the Local Planning Authority should be notified immediately.

Reason: To ensure that historic features are recorded and preserved as part of the special character of the Listed Building.

#### Details of discrete elements

5. Before construction of the following elements proceed, further details of these discrete elements of the design shall be submitted to and approved in writing by the Local Planning Authority:
  - The balcony internally and the raised platform externally (including appropriate structural calculations;
  - Exterior lighting;
  - New external joinery for the east gable fenestration;
  - The formation of the new openings to the walls including lintels, making good, etc.; and,
  - The position, type and method of installation of all new services and related fixtures (including rainwater goods, communications and information technology servicing).

The development shall thereafter be undertaken in strict accordance with the details as approved and in accordance with the details received within permission 06/23/0647/VCF.

Reason: To preserve the character of the listed historic building.

#### Materials

6. The materials to be used in making good any defects or repairs shall match the original materials as closely as possible, and where new openings are formed, they shall be recovered for reuse and the mortar type and mix shall match that originally used, including aggregate type, binder and pointing finish.

Reason: To preserve the character of the listed historic building.

#### Preservation of historic features

7. All original external and internal historic features, part of the special character of the heritage asset (including buttresses, brickwork, joinery of historic importance, etc) should be preserved and protected from any damage throughout the works. Any damaged fabric should be repaired in a like for like manner with relevant matching materials and techniques.

Reason: To ensure that regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### Contamination Report

8. The Phase II contamination assessment, submitted to and approved by the Local Planning Authority under 06/22/0499/CD, shall be carried out in accordance with the approved details.

Reason: To enable maintenance/renovations of the units and for the Local Planning Authority to retain control over the use of the units for holiday accommodation.

#### Contamination not previously identified.

9. In the event contamination that was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. All development shall cease and shall not recommence until:
  - 1) A report has been submitted and agreed in writing by the Local Planning Authority which includes results of an investigation and risk assessment together with proposed remediation scheme to deal with the risk identified; and,
  - 2) The agreed remediation scheme has been carried out and a validation report demonstrating its effectiveness has been approved in writing by the Local Planning Authority

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

#### Construction Hours

10. Construction work shall not take place outside the following hours:-

8:00 to 18:00 Mondays to Fridays,

8:30 to 13:30 Saturdays,

And no work shall take place on Sundays, Public or Bank Holidays.

(These hours shall only apply to work generating noise that is audible at the boundary of the nearest noise sensitive property)

Reason: In the interests of the residential amenities of the occupiers of nearby dwellings.

#### Air Quality

11. The following measures shall be employed to protect air quality:
- A supply of water shall be available sufficient for suppressing dust;
  - Mechanical cutting equipment with integral dust suppression shall be used;
  - There shall be no burning of any materials on site.

Reason: The site has the potential to generate a significant amount of dust during the construction process.

#### Noise report and mitigation strategy

12. Before first use a noise report and mitigation strategy to BS4142 demonstrating that noise is to within acceptable limits as defined by the World Health Organisation is sufficiently attenuated with regard to amplified music and other performance related noise sources, shall be submitted in written form to the Local Planning and subsequently approved by them. The works shall be affected on site where necessary in accordance with the findings of the noise report and mitigation strategy.

Reason: To protect residential amenity with regard to noise.

#### **Informative Notes**

1. STATEMENT OF POSITIVE ENGAGEMENT: In dealing with this application Great Yarmouth Borough Council has actively sought to work with the applicant in a positive and proactive manner.
2. NOTES – The applicant will need an environmental permit for flood risk activities if they want to do work in, under, over or within 8 metres (m) from a fluvial main river and from any flood defence structure or culvert or 16m from a tidal main river and from any flood defence structure or culvert. The Tidal River Yare is designated a 'main river'.

## APPENDIX 1: Site Location Plan

