

Development Management Committee Report

Committee Date: **18 December 2023**



Application Number	06/21/0254/F (Click here to see the application webpage)
Site Location	The Tee Shirt Shack J5, The Jetty, Marine Parade, Great Yarmouth, NR30 3AH
Proposal	Proposed replacement of existing unit with a storage container (to be used as a retail unit) (Retrospective)
Applicant	Mr C Meakin
Case officer	Mr M Joyce
Parish & Ward	Great Yarmouth, St Andrews Ward
Date Valid	29/03/2021
Expiry / EoT Date	31/01/2024
Reason at committee	Connected application – Great Yarmouth Borough Council is landowner
Procedural notes	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 08/12/2023, 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: APPROVE, SUBJECT TO CONDITIONS

1. The Site

- 1.1 The application site is to the east of Marine Parade and is situated on the right-side of the entrance into the Jetty South Car Park. To the south of the site there is a large area of open space which currently hosts a couple of visitor rides/attractions including the Great Yarmouth Observation Wheel. Behind the existing 'Tee Shirt Shack' is the Marine Parade Public Toilets.
- 1.2 To the east is the coastline and to the north and south are several key tourist attractions that form the 'seaside' character of the area and generate the bustling environment at the seafront during the summer periods. The site is within both a conservation area and flood area.

- 1.3 Marine Parade consists of many kiosk structures, not dissimilar to what is proposed, along much of the east side of the parade. Most of these kiosks are situated on the boundary of the highway and some have awnings, signage and seating that overhang onto the highway. These kiosks and units are all colourful and bright in design and respond to the 'seaside' character of the area.
- 1.4 The site does fall within the Conservation Area No. 16 Seafront. The site is also within the setting of three Grade II listed sites: the Far East prisoner of War, War Memorial, the Barking Smack Public House, and the Windmill Cinema.

2. The Proposal

- 2.1 At the time of the submission of the application the proposal was to replace a smaller retailing kiosk with a larger unit proposed in this application.
- 2.2 During the course of the assessment of this application the original kiosk has been replaced with the kiosk proposed in this application.
- 2.3 Although the plans submitted initially did not reflect the works that have actually been undertaken, the plans were revised on 7th December 2023 to reflect what has been provided. The submitted application was originally shown with proposed bifold doors opening into the middle of the longer kiosk. As installed, two roller-shutter doors have been used rather than bi-fold doors.
- 2.4 The kiosk container is 2.8 meters in height, increasing to 4.3 meters in height when including the plywood signage that is currently mounted on top of the container.
- 2.5 The development is for a replacement kiosk unit which occupies a larger site than the existing/former kiosk, due to providing a bigger unit which has extended the site approximately 5.4 metres southwards (i.e. a 5.4m wider kiosk fronting Marine Parade). The container now measures 10m long (north-south) x 2.4m deep.
- 2.6 The former/original kiosk was 10 square meters (sqm) in area (5m x 2m). The proposed kiosk is larger, as the site area is extended to the south, increasing the internal floorspace to 24 sqm, which is an increase of 14 sqm over the existing unit floorspace.
- 2.7 The application has stated that two full-time and one part-employee would continue to be employed at the larger kiosk (as with the original smaller kiosk). No opening hours have been proposed on the application form.
- 2.8 Committee is asked to consider whether planning permission should be granted retrospectively for the development undertaken, which is now presented in the amended application.

3. Site Constraints

- 3.1 The site falls within Conservation Area No.16 and is within the setting of Grade II listed sites the 'Far East prisoner of War, War Memorial', the 'Windmill Cinema' and the 'Barking Smack Public House'.
- 3.2 The site is within Flood Zone 3.

- 3.3 The site falls within the development limits of Great Yarmouth, and within the designated "Great Yarmouth Seafront Area" defined by local plan policy GY6.

4. Relevant Planning History

- 4.1 There is no planning history for the former retail kiosk which has since been removed.
- 4.2 The land adjacent the south side of the former kiosk, which is now also occupied by the larger kiosk, used to also include a portacabin which appears to have last been used by the Safer Neighbourhood Team, as below:

- 4.3 Planning History for Kiosk Site K6, The Jetty, Marine Parade, Great Yarmouth (post-1990):

- 06/14/0617/F
Renewal of planning permission 06/11/0485/F for portacabin for use by safer neighbourhood team.
Approved 28/10/2014.

The development the subject of this permission was required by Condition 1 to be removed by 28th October 2019 at the latest. It is understood to have been removed.

- 06/11/0485/F
Renewal of Planning Permission No:06/08/0515/F for erection of temporary portacabin for use by safer neighbourhood team & partners.
Approved 26/09/2011.
- 06/08/0515/F
Erection of temporary portacabin for use by Safer Neighbourhood Team & Partners during Summer Season 2008.
Approved 20/08/2008.

5. Consultation responses

5.1. Local Highways Authority

Initial objection removed – No objection to the amended plans subject to conditions

- 5.1.1 The original proposed plans showed bifold doors would be used to open out over the public highway and remain over the highway when open, projecting in excess of 2.2m from the container.
- 5.1.2 Under Section 153 of the Highways Act 1980 (as amended) it is an offence for doors to open out over the highway. The Highway Authority objected initially because these doors were proposed; had they been retained they would have obstructed the highway and the highway authority would not have been able to issue a license for the doors to open across the highway.
- 5.1.3 However, the proposals have since been amended such that using roller shutter doors removes the concern and avoids doors / windows opening over the highway. The Highway Authority has accordingly removed their objection and request the use of a condition to ensure no openings occur over the highway in the future.

- 5.1.5 Officer response: The storage container unit kiosk as proposed and installed does not have any doors that overhang and obstruct the highway. However, there are pop-up display stands that are situated on the highway, but these are not fixed and can be moved accordingly, and can be subject to pavement licencing rather than planning as they are not adverts.

5.2. Conservation Officer

No objection

- 5.2.1 Verbal advice received that there are no objections in relation to the impact on the character and appearance of the conservation area. Although the signage is tall, it is acceptable given the surrounding area, as long as the sign is not illuminated.

6. Publicity & Representations received

- 6.1 Consultations undertaken: Letters to neighbours; Site notices; Press advert. Reasons for consultation: Development within the Conservation Area. The overall expiry date for the consultation was the 18 May 2021.

Ward Member – Cllr R. Upton and Cllr B. Wright

- 6.2 No comments received.

Public Representations

- 6.3 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 CS7: Strengthening our centres.
- 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 UCS7: Amendments to CS7 - Strengthening our centres
- Policy GSP1: Development limits
- Policy GY6: Great Yarmouth Seafront Area
- Policy R1: Location of retail development
- Policy R6: Kiosks and stalls
- Policy E1: Flood risk
- Policy E5: Historic environment and heritage

8. Other Material Planning Considerations

National Planning Policy Framework (September 2023)

- 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.

Planning (Listed Buildings and Conservation Areas) Act 1990

- Section 66: General duty as respects listed buildings in exercise of planning functions.
- Section 72: General duty as respects conservation areas in exercise of planning functions.

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.*

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

10 Assessment

Principle of Development

10.1 The application site is situated on Marine Parade which is included in the designated “Great Yarmouth Seafront Area” defined by local plan policy GY6, and already contains a wide variety of different kiosks and units similar to the proposed.

10.2 The proposal is for a replacement storage container to be used as a retail sales unit under the same use class as it’s forerunner but with a slightly larger floorspace. 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, and Policy GY6 specifically encourages new tourism and leisure facilities in the Seafront Area.

10.3 Retailing is a ‘main town centre use’ defined by the NPPF which should be directed to defined centres and shopping frontage. This is not a designated retail area or local centre. Where new retail development is proposed, ordinarily policy R1 would seek to ensure the location is

appropriate and direct new retail to established designated centres, or where no suitable locations are available within defined centres, to 'edge of centre' locations – which for retail proposals in Great Yarmouth policy R1 defines is sites within 300m of the Primary Shopping Area.

- 10.4 The site is 640m from the Primary Shopping Area at the north-west end of St Georges Road, but is within 120m walking distance of the Local Centre at St Peter's Road.
- 10.5 However, Policy R6 permits some new retail outlets and kiosks in the Great Yarmouth Seafront Area defined by policy GY6. An assessment against policy R6 is provided later in this report.
- 10.6 In summary, the principle of development in this case is concerned with the retail provision. The net increase of only 14sqm is considered a di-minimis increase in the context of the impacts that policy R1 is concerned with and falls into consideration as a kiosk which is supported in principle by policy R6. Whilst there is a slight conflict with local plan policy R1 this is not considered fatal to the outcome of this proposal when noting there has been the same retail activity at this site for a long period of time, just on a slightly smaller area.

Design

- 10.7 The appearance of the proposed storage container is similar to the container this application seeks to replace but differs in being double the length. Units of this design are also along Marine Parade with example such as the line of 'shacks' to the south of Wellington Pier. The jaunty plywood signage above the container is not dissimilar to the previous kiosk and others.
- 10.8 The overall effect of the design on the character of the area is not unacceptable.

Impact on Character of the Area and Heritage Assets

- 10.9 Policy CS10 requires the safeguarding and preservation of local heritage assets through conserving or enhancing their significance. Policy E5 expects development to "conserve and enhance the significance of heritage assets, including any contribution made by their setting, by positively contributing to the character and local distinctiveness of the area."
- 10.10 The site is within No. 16 Seafront Conservation Area which means that that 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 sites "Far East Prisoner of War, War Memorial", "Windmill Cinema" and "Barking Smack Public House". Due to the development being within the setting of all three designated listed building assets, when considering whether to grant permission the Local Planning Authority must, in accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, have 'special regard to desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'.
- 10.11 The impact of the development on the listed buildings' character and their setting can be considered negligible as the area can already be seen to possess a variety of kiosks, units and various other attractions that are clad with colour and bold advertisements. Furthermore, the additional space occupied by the larger kiosk container was until relatively recently also occupied by a portacabin.
- 10.12 In the assessment of 'harm' required by the NPPF, the effect of the development on the character and appearance of the conservation area and setting of nearby listed buildings is

considered neutral, as it doesn't significantly enhance or negatively impact the character of the area. Whilst the roller shutter doors have an industrial appearance and are not sympathetic to the historic elements of the surroundings, their use is predominantly in the off-season and at night and is not too dissimilar to the former building, nor others along Marine Parade. It is considered overall that even with roller shutter doors the development has a more unified appearance in comparison to the two units that occupied the space for a long time beforehand. Therefore, it can be argued that the replacement unit will conserve and enhance the character of the surrounding conservation area.

- 10.13 Listed buildings the Barking Smack Public House and Windmill Cinema can already be seen with colourful, bold signage to the site's frontages. Therefore, it can be considered that the proposed storage unit across the street from them is unlikely to cause adverse impacts on their setting.
- 10.14 The signage that is being displayed does not have the necessary Advertisement Consent and this application does not include an application for advertisement consent. An Informative Note should be included on any grant of planning permission to advise that an application should be pursued.

Access, Traffic and Highways impacts

- 10.15 Highways Officers had raised concerns over the bifold doors initially proposed which would have opened outwards and subsequently overhang onto the highway.
- 10.16 Paragraph 111 of the NPPF states that '*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety*'.
- 10.17 As discussed earlier the Highways Officer responded to the proposal stating that any bifold doors would not be able to remain projecting over the highway. The revised plans with roller shutter doors have removed this concern and the objection has been removed.
- 10.18 The proposed unit which is in place does not have doors that overhang and obstruct the highway. However, a condition is suggested to avoid elements overhanging the highway.
- 10.19 Whilst there are pop-up display stands present outside of the unit these can be moved and are not fixed in place and would only be in situ during hours of business and removed at all other times.

Flood Risk

- 10.20 The site falls within Flood Zone 3, 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.
- 10.21 However, it is acknowledged that the application proposes a replacement of an existing storage container unit and a portacabin with negligible floorspace increase (14 square meters) 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.

Policy R6: Kiosks and Stalls

- 10.22 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.”*
- 10.23 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.
- 10.24 The revised plans have removed the bifold doors so they no longer open outwards and overhang onto the highway. The proposal can be considered acceptable against policy R6 criteria (a), subject to a condition requiring that any parts of the structure shall not project over the highway at any time.
- 10.25 As discussed above, it is acknowledged that there are kiosks, units and stalls similar to the proposed along Marine Parade. Marine Parade is characterised by its ‘seaside holiday’ appearance which is associated with a range of colourful, bright and boldly designed stalls and attractions. The overall appearance of the development can be considered in keeping with those forms of structures within the conservation area and in the setting of the surrounding listed buildings. Therefore, the proposal can be considered to address criteria ‘b’.
- 10.26 In terms of criterion ‘c’, the proposal is for the replacement of an existing retail unit, the impacts of the proposal on the ‘clustering of such uses’ will not be significantly changed as the same use is being continued, and only a small increase in the size of the facility is proposed.
- 10.27 Criterion ‘d’ can be considered as slightly less relevant than ‘a’, ‘b’ and ‘c’ as the unit is proposed for retail not hot food takeaways (and is currently selling t-shirts), which will not produce as much waste as opposed to food/ drink kiosks. The plans do not incorporate areas to store and aid the collection of waste, but this should not be considered as a reason for refusal as the stall is unlikely to generate significant amounts of waste, and the waste that is generated will be accommodated by the number of public bins lining Marine Parade.

Local Finance Considerations

- 10.28 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 consists of a replacement storage container for use as a retail unit, increasing ground floor space. The proposal is considered to be of appropriate design which consolidates the appearance of two former temporary structures on the site, and which preserves the character and appearance of the Seafront Conservation Area and the settings of nearby Grade II listed buildings and structures. Despite the use of roller shutter doors being unsympathetic to the historic context, the development is not considered to cause harm overall, taking into account the previous situation at the site. The benefit of using roller shutters is that now the unit does not appear to obstruct the public highway as was the former concern of the local Highway Authority.
- 11.2 It is considered that any harm to the character and appearance of heritage assets has been negated by the context of previous developments and is outweighed or neutralised by the continued provision of employment and attractions for the tourist economy.

12. Conclusion and Recommendation

- 12.1 Despite proposing increased retail in an out-of-centre location, the principle of development is considered acceptable for the Great Yarmouth Seafront Area given the allowances and support of policy R6. The site lies within flood zone 3 but is the same 'less vulnerable' use in flood risk terms, and subject to a similar related condition being attached any flood risk issues can be satisfactorily mitigated.
- 12.2 The expansion of the original kiosk will encourage continued and increased local spend and retain the existing employment related to this retail use.
- 12.3 The proposal is considered to be neutral in heritage terms related to the conservation and enhancement of the Conservation Area, neutral in environmental terms subject to a flood risk mitigation condition being attached, and slightly positive in terms of its economic and social benefits.
- 12.4 Therefore, having considered the details provided the application, it is positive on balance in planning terms if subject to the recommended conditions and is considered to comply with policies CS6, CS9, CS10 and CS13 from the adopted Core Strategy, and policies GSP1, GY6, R6, E1 and E5 of the adopted Local Plan Part 2, and there are no other material considerations identified to suggest the application should not be recommended for approval.

13. RECOMMENDATION

- 13.1 It is recommended that application 06/21/0245/F should be **APPROVED**, subject to the proposed conditions listed below, and delegated authority being provided to the Head of Planning to make any required amendments to the published conditions and / or informative notes.

Proposed Conditions

- 1 The development shall be retained in accordance with the revised plan ref. 1558-1 Rev.A (Nov'23)1, as received by the Local Planning Authority on 7th December 2023.

Reason: For the avoidance of doubt.

- 2 Within three months of the date of this permission, a flood response plan shall be 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 provided to and made available to all future occupiers of the site thereafter.

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

- 3 No part of the proposed structure (to include fascia board/rainwater guttering) shall overhang or encroach upon highway land and no door/window or other opening shall open outwards over the highway at any time.

Reason: In the interests of highway safety.

Proposed Informative Notes

- 1 Informative Note: Advertisement consent
The display of advertisements is not part of this planning approval. The applicant is advised that express advertisement consent may be required to display advertisements/signage and is advised to contact the Local Planning Authority for advice on this matter.
- 2 Informative Note: Advertisements and the public highway
This development may involve a sign that affects the public highway. The applicant should note that Norfolk County Council as Highway Authority reserves the right under the general provisions of Common Law and Section 152 of the Highways Act 1980 to seek the removal of any sign causing an obstruction or nuisance, or which obscures or hinders the ready interpretation of a road traffic sign. Advice on this matter can be obtained from the County Council's Highways Development Management Group based at County Hall in Norwich. Please contact (insert appropriate contact details).
- 3 Informative Note: Trade Waste
The applicant is advised that businesses require a Trade Waste contract to dispose of all waste associated with commercial activities as stated in the Environmental Protection Act 1990, Section 34.
- 4 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.

Appendix 1: Site Location Plan

