

Reference: 06/17/0313/CU

Parish: Hemsby
Officer: Mr Jack Ibbotson
Expiry Date: 14-07-17

Applicant: Mr L Lewis

Proposal: Retrospective application for the change of use from A1 retail to A5 hot food takeaway.

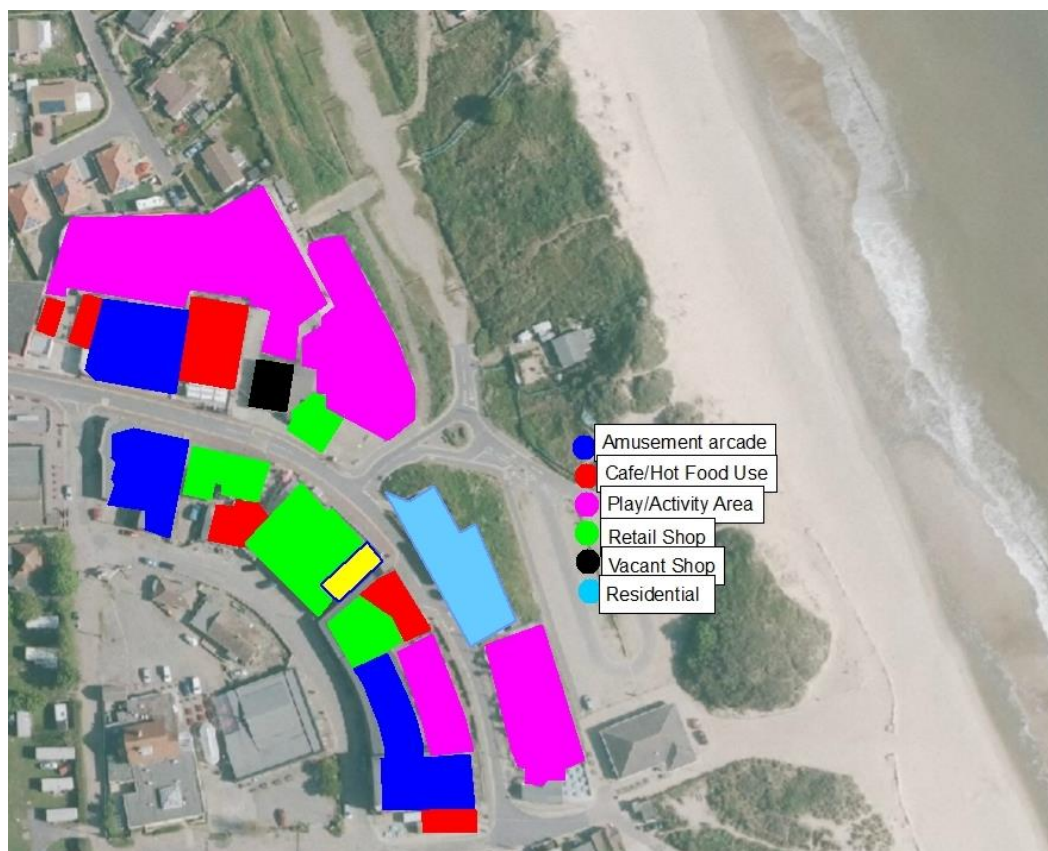
Site: Grill and Grind2, Clearance House, Beach Road, Hemsby, Great Yarmouth

REPORT

1. Background/History:-

- 1.1** The site to which this application relates is a small commercial unit located within Hemsby's Prime Commercial Holiday Area. The unit had been part of the neighbouring indoor market, Clearance House, but is now a separate unit within this larger building that otherwise remains in retail use. Clearance House is located within approximately 100m of Hemsby Beach, and is opposite the entrance to Hemsby Beach private car parks.
- 1.2** An assessment of the land use (see plan 1.3 below) of the frontage in which the unit sits, and the land opposite, has identified that the neighbouring business to the south is a hot food takeaway (Fish and Chip Shop) and within the neighbouring block to the south there is also a gift shop, and Amusements arcade. The adjoining units to the north are in use respectively as retail (indoor market), vaping shop (smoking products), Café (Two Ways Cafe), Little Johns Gift/Beach Shop and Sands Amusements arcade. Directly opposite the unit are three holiday/residential properties in the form of timber built single storey structures with private drives and gardens. On the opposite side of the road to the northern side of the car park entrance, there is a go-kart track, clothes shop, a vacant shop unit, café/restaurant/takeaway (Hollywood Diner), and an amusements arcade.

1.3 Current Land Use



- 1.4 More broadly, from the letters of objection and comment from the Borough Councillors and Parish Council it has been stated that there are 28 Food related businesses out of 52 businesses located within the Beach Road Area. Whilst these figures have not been verified, the applicant has not offered evidence contrary to this, and therefore these figures can be considered accurate.
- 1.5 The unit had previously been used in a retail use (use-class A1), its most recent occupant was a shop selling vaping and smoking products called the Ministry of Vape, this particular retail use linked to vaping (if not the individual business) seems to have relocated to the north end of Clearance House. In April 2017 an unauthorised change of use took place where the unit began to operate as a hot food takeaway (use-class A5) which is the subject of this retrospective planning application.
- 1.6 Retrospective planning permission is sought for the change of use to hot food takeaway, the proposed insertion of a wall mounted intake/extract fan in the side elevation and external bin store. The single storey unit is approximately 10m deep and has a 5.0m wide open frontage with a roller shutter. The unit has a 5.5m x 4.9m serving and food preparation area, and an area to the rear used for storage, toilets and preparation. Staff toilets are provided to the rear

of the unit. Bins stores are to be provided within the site, and would be collected on a weekly basis through contract collection.

2. Consultations :-

2.1 Neighbours –

Following a consultation process in line with the General Development Procedure Order which included a site notice and letters to neighbouring properties, objections were received for the development from 8 third party consultees, the Parish Council and the Ward Member.

The following points of objection and queries regarding the development were raised by third party consultees.

- There are already too many food related businesses in Beach road and this would constitute proliferation which could lead to job losses and or businesses closing.
- Other tourist related retail would be more beneficial.
- The use would result in increased litter
- Concerns regarding the provision for waste storage and collection, and where any waste bin is to be located
- Hygiene and Health and safety is raised as a concern. One specific example given is whether retail slat boarding is considered hygienic in a food business.
- Lack of toilet provision for staff and visitors to the area. If not provided they assert that this would result in other businesses facilities being used.
- Lack of a policy to cover/restrict hot food takeaways in Hemsby

2.3 Ward Councillor

The comprehensive responses from the ward councillor include the following points of objection.

The councillor states that there are 52 businesses in Hemsby Beach Road area, and 28 are food related. There needs to be an understanding of whether the area is a holiday area or a town centre and that there should be a relevant mixture of things for people to encourage them to visit. An example of good development is given (Hirsty's Maize Maze) stating that they have approximately 5 to 6 activities to the 1 food outlet and that Beach Road is already flooded with food outlets meaning that further food outlets would only result in the money tourists have for food being spread more thinly between businesses forcing some to close. There needs to be a point when further development of food related businesses is resisted otherwise Hemsby would lose its attraction to holidaymakers.

Additionally the councillor is concerned that there are not the relevant handwashing facilities or toilets at the site. Parking issues were also raised including parking on the footpath.

2.4 Norfolk County Council Highways

No comment

2.5 Environmental Health

Officers visited the site whilst it was operating and have requested that a wall mounted ventilation fan be installed. Additionally, they have made comments that the property should have staff toilets in line with relevant council policy and that adequate waste storage and collection should be arranged.

2.6 Hemsby Parish Council

Object to the scheme

- 28 out of 52 businesses are excessive and do not represent a good spread of tourist related businesses.
- There are no toilets or hygiene facilities
- No parking is provided which caused issues when the unit was operating and could cause a hazard.
- Litter caused by this development.

3 Local Policy - Saved Great Yarmouth Borough-Wide Local Plan Policies (2001):

3.1 Paragraph 215 of the NPPF states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the Local Plan is to the policies in the NPPF the greater the weight that is given to the Local Plan policy. The Great Yarmouth Borough Wide Local Plan was adopted in 2001 and the most relevant policies were 'saved' in 2007 and assessed again in January 2016. An assessment of policies was made during the adoption of the Core Strategy December 2015 and these policies remain saved following the assessment and adoption.

3.2 The Saved Policies listed have all been assessed as being in general conformity with the NPPF, and add further information to the policies in the NPPF, while not contradicting it. These policies hold the greatest weight in the determining of planning applications.

3.3 POLICY SHP15:

PROPOSALS FOR THE ESTABLISHMENT OF HOT FOOD TAKE-AWAYS
NOT FALLING TO BE CONSIDERED UNDER THE PROVISIONS OF

POLICY SHP4 WILL BE PERMITTED SUBJECT TO THE FOLLOWING CRITERIA:

(A) THE PROPOSAL WOULD NOT CREATE AN OVER-CONCENTRATION OR PREPONDERANCE OF CLASS A3 USES WHICH WOULD SIGNIFICANTLY DETRACT FROM THE VITALITY AND VIABILITY OF A SHOPPING FRONTAGE;

(B) THE PROPOSAL WOULD NOT SIGNIFICANTLY ADVERSELY AFFECT ADJOINING OR NEIGHBOURING OCCUPIERS AND USERS OF LAND OR PREMISES BY VIRTUE OF NOISE, DISTURBANCE, SMELL OR FUMES;

(C) THE PROPOSAL WOULD NOT BE LIKELY TO RESULT IN A SIGNIFICANT HAZARD TO ROAD SAFETY OR SIGNIFICANTLY IMPEDE THE FREE FLOW OF TRAFFIC;

(D) COMPLIANCE WITH THE COUNCIL'S PARKING AND SERVICING STANDARDS AS SET OUT AT APPENDIX (A) TO CHAPTER 3 IN THE CASE OF ALL NEW OPERATIONAL DEVELOPMENT, AND WHERE POSSIBLE OR NECESSARY IN THE CASE OF A CHANGE OF USE; AND,

(E) THE PROPOSAL WOULD NOT SIGNIFICANTLY ADVERSELY AFFECT THE CHARACTER OF THE AREA OR THE LOCAL ENVIRONMENT.

(Objective: To allow the provision of hot food outlets outside shopping areas whilst safeguarding the amenities and character of the area.)

3.4 POLICY SHP14 SUBJECT TO THE SIZE OF THE PROPOSAL, THE CONVERSION OR REDEVELOPMENT OF PROPERTIES TO PROVIDE CLASS A1 OR CLASS A3 USES WILL BE PERMITTED IN THE PRIME COMMERCIAL HOLIDAY AREAS SHOWN ON THE PROPOSALS MAP.

(Objective: To ensure the continued commercial vitality of designated tourist shopping areas.)

3.5 POLICY TR5

THE COUNCIL WILL PRESERVE AND ENHANCE THE EXISTING CHARACTER OF HOLIDAY AREAS BY ENSURING THAT THEY ARE NOT SPOILT BY OVER-DEVELOPMENT. PROPOSALS FOR USES SUCH AS FUN-FAIRS, DISCOTHEQUES OR OTHER USES LIKELY TO GENERATE SIGNIFICANT LEVELS OF NOISE OR DISTURBANCE OR OPERATE DURING UNSOCIAL HOURS WILL BE PERMITTED ONLY IN THE PRIME COMMERCIAL HOLIDAY AREAS (AS DEFINED ON THE PROPOSALS

MAP) AND WHERE THE APPLICANT CAN DEMONSTRATE THAT THERE WOULD BE NO SIGNIFICANT DETRIMENT TO THE OCCUPIERS OF ADJOINING PROPERTIES AND USERS OF LAND.

(Objective: To preserve and enhance the character of existing holiday areas.)

4 Core strategy – Adopted 21st December 2015

4.1 POLICY CS1 – FOCUSING ON A SUSTAINABLE FUTURE

For the Borough of Great Yarmouth to be truly sustainable it has to be environmentally friendly, socially inclusive and economically vibrant not just for those who currently live, work and visit the borough, but for future generations to come. When considering development proposals, the Council will take a positive approach, working positively with applicants and other partners to jointly find solutions so that proposals that improve the economic, social and environmental conditions of the borough can be approved wherever possible.

To ensure the creation of sustainable communities, the Council will look favourably towards new development and investment that successfully contributes towards the delivery of:

- a) Sustainable growth, ensuring that new development is of a scale and in a location that complements the character and supports the function of individual settlements
- b) Mixed adaptable neighbourhoods, which provide choices and effectively meet the needs and aspirations of the local community
- c) Environmentally friendly neighbourhoods that are located and designed to help address and where possible mitigate the effects of climate change and minimise the risk of flooding
- d) A thriving local economy, flourishing local centres, sustainable tourism and an active port
- e) Safe, accessible places that promote healthy lifestyles and provide easy access for everyone to jobs, shops and community facilities by walking, cycling and public transport
- f) Distinctive places that embrace innovative, high quality urban design that reflects positive local characteristics and protects the borough's biodiversity, unique landscapes, built character and historic environment

Planning applications that accord with this policy and other policies within the Local Plan (and with policies in adopted Neighbourhood Plans, where relevant) will be approved without delay, unless other material considerations

indicate otherwise. Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise, taking into account whether:

- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole
- Specific policies in that Framework indicate that development should be restricted

4.2 POLICY CS2 – ACHIEVING SUSTAINABLE GROWTH

Growth within the borough must be delivered in a sustainable manner in accordance with Policy CS1 by balancing the delivery of new homes with new jobs and service provision, creating resilient, self-contained communities and reducing the need to travel. To help achieve sustainable growth the Council will:

a) Ensure that new residential development is distributed according to the following settlement hierarchy, with a greater proportion of development in the larger and more sustainable settlements:

- Approximately 35% of new development will take place in the borough's Main Towns at Gorleston-on-Sea and Great Yarmouth
- Approximately 30% of new development will take place in the borough's Key Service Centres at Bradwell and Caister-on-Sea
- Approximately 30% of new development will take place in the Primary Villages of Belton, Hemsby, Hopton on Sea, Ormesby St Margaret, Martham and Winterton-on-Sea
- Approximately 5% of new development will take place in the Secondary and Tertiary Villages named in the settlement hierarchy
- In the countryside, development will be limited to conversions/replacement dwellings/buildings and schemes that help to meet rural needs

b) To ensure compliance with Policy CS11, the proportions of development set out in criterion a) may need to be further refined following additional work on the impact of visitor pressures on Natura 2000 sites

c) Ensure that new commercial development for employment, retail and tourism uses is distributed in accordance with Policies CS6, CS7, CS8 and CS16

d) Promote the development of two key strategic mixed-use development sites: the Great Yarmouth Waterfront area (Policy CS17) and the Beacon Park extension, south Bradwell (Policy CS18)

e) Encourage the reuse of previously developed land and existing buildings

To ensure that the Council delivers its housing target, the distribution of development may need to be flexibly applied, within the overall context of seeking to ensure that the majority of new housing is developed in the Main Towns and Key Service Centres where appropriate and consistent with other policies in this plan. Any changes to the distribution will be clearly evidenced and monitored through the Annual Monitoring Report.

4.3 Policy CS8 – Promoting tourism, leisure and culture

As one of the top coastal tourist destinations in the UK, the successfulness of tourism in the Borough of Great Yarmouth benefits not only the local economy but also the wider sub-regional economy as well. To ensure the tourism sector remains strong, the Council and its partners will:

- a) Encourage and support the upgrading, expansion and enhancement of existing visitor accommodation and attractions to meet changes in consumer demands and encourage year-round tourism
- b) Safeguard the existing stock of visitor holiday accommodation, especially those within designated holiday accommodation areas, unless it can be demonstrated that the current use is not viable or that the loss of some bed spaces will improve the standard of the existing accommodation
- c) Safeguard key tourist, leisure and cultural attractions and facilities, such as the Britannia and Wellington Piers, Pleasure Beach, Hippodrome, the Sea Life Centre, the Marina Centre, Great Yarmouth Racecourse, St Georges Theatre and Gorleston Pavilion Theatre
- d) Maximise the potential of existing coastal holiday centres by ensuring that there are adequate facilities for residents and visitors, and enhancing the public realm, where appropriate
- e) Support the development of new, high quality tourist, leisure and cultural facilities, attractions and accommodation that are designed to a high standard, easily accessed and have good connectivity with existing attractions
- f) Encourage a variety of early evening and night time economy uses in appropriate locations that contribute to the vitality of the borough and that support the creation of a safe, balanced and socially inclusive evening/night time economy
- g) Support proposals for the temporary use of vacant commercial buildings for creative industries, the arts and the cultural sector, where appropriate
- h) Seek to support the role of the arts, creative industries and sustainable tourism sectors in creating a modern and exciting environment that will attract more visitors to the borough
- i) Support proposals for new tourist attractions and educational visitor centres that are related to the borough's heritage, countryside and coastal assets, and emerging renewable energy sector

- j) Ensure that all proposals are sensitive to the character of the surrounding area and are designed to maximise the benefits for the communities affected in terms of job opportunities and support for local services
- k) Encourage proposals for habitat-based tourism, especially where these involve habitat creation and the enhancement of the existing environment, in particular the areas linked to the Broads
- l) Protect rural locations from visitor pressure by ensuring that proposals for new tourist, leisure and cultural facilities are of a suitable scale when considering relevant infrastructure requirements and the settlement's position in the settlement hierarchy, in accordance with Policy CS2
- m) Protect environmentally sensitive locations, such as Winterton-Horsey Dunes Special Area of Conservation (SAC), from additional recreational pressure by seeking to provide facilities to mitigate the impact of tourism. In addition, the Council and its partners will seek to develop a series of 'early warning' monitoring measures which will be set out in the Natura 2000 Sites Monitoring and Mitigation Strategy along with the identified mitigation measures
- n) Support proposals involving the conversion of redundant rural buildings to self-catering holiday accommodation and/or location appropriate leisure activities, particularly where these would also benefit local communities and the rural economy
- o) Support the development of navigational links to the Broads and beyond where possible
- p) Work with partners to improve accessibility and public transport links to make it as easy as possible for visitors to travel to and around the borough.

5. Assessment

5.1 Key considerations

The key issues relating to this change of use to hot food take away within the Prime Commercial Holiday Area in Hemsby are as follows

- The impact upon the amenity of neighbouring residents and businesses through odours and smells emanating from the cooking of hot food;
- The impact that the loss of the retail (A1 Use) unit would have on the vitality and viability of Hemsby Prime Commercial Holiday Area;
- The impact that the change of use to a hot food take away (A5 use) would have upon the character and appearance of the area;
- Traffic and highways impact of this development;
- Bin storage, litter and toilet provision.

On the whole these issues were also raised as part of the consultation process.

5.2 Policy Context

The application is assessed primarily against saved policies of Great Yarmouth Borough Wide Local Plan, although the principles of the NPPF and Great Yarmouth Local Plan Core Strategy are important considerations as they set out the presumption in favour of sustainable development and would support new business development in the Borough.

- 5.3** Saved policy SHP 14 (Retail and food and drink uses in prime commercial holiday areas) sets out that in prime commercial holiday areas, in which this site is located, food uses would be supported subject to the size of the proposal. In this instance the unit is a modest size, approximately $\frac{1}{4}$ of the total of Clearance Use and is therefore supported by this policy.

- 5.4** SHP 15 (Hot-food takeaways) sets out the criteria against which takeaways should be assessed, the report will go on to consider these points. Saved policy TR5 (Character of holiday areas) looks to protect and enhance the existing character of the holiday area. The assessment of the application shows the distribution of land uses in the surrounding area (see plan at 1.3) and sets out that there is not a significant impact upon the existing character of the area.

5.5 Site Specific Assessment

As the application is retrospective officers from the Council's Environmental Health and Planning Department visited the site during the time the unit was operating to assess the impact of the cooking at the site in terms of odours. The council issued a planning enforcement temporary stop notice to make further checks and in the interim the site owner has made this planning application. The applicant complied with the notice, and has not opened since this intervention although the temporary stop notice has lapsed. The applicant has waited for the outcome of this planning application to take further steps. From the site inspections it was clear that because the limited size of the building, and the type of cooking on site being based on electric hotplates the intensity of cooking odours was limited. No objections had or have been received from the nearest residential/holiday accommodation properties regarding smells or odours or loss of amenity.

- 5.4** The location of this single storey building in a predominantly commercial area with no flats above, and a degree of separation (nearest accommodation being on the opposite side of Beach Road) means there is not a requirement

for extensive odour suppression or ventilation. A requirement for a wall mounted ventilation fan was raised by Environmental Health and this has been included in the planning application. The adjacent business to the south is a hot food takeaway which would not be harmed by this use, to the north the adjoining retail business has not objected and would not be adversely impacted. Therefore it is considered that the change of use to a hot food takeaway in this location would not be harmful to the amenity of neighbouring land uses or residents and would be in accordance with saved Policy SHP15 of the Great Yarmouth Borough Wide Plan.

- 5.5** The loss of the application site as a retail unit is not considered to be sufficient to warrant refusal or result in harm to the viability of Hemsby Prime Commercial Holiday Area. The unit's frontage is 5.0m wide, the building in which the unit sits has a frontage of 30m, therefore only 1/6th of the retail frontage would be lost and 25m of the frontage would remain in a retail use. Opposite, there is a retail shop in use as a clothes shop, and also to the north of the site is Little Johns Shop which has a frontage of approximately 21m. It is also pertinent to note that between the Hollywood Diner, and the clothes shop opposite the site is a vacant retail premises.
- 5.5** When considering the variety of uses remaining in the area after this development took place, (see plan at 1.3) it is not possible to argue that the provision of tourist facilities and attractions is deficient. There are a variety of shops, amusements, activities and food uses (both cafes and also hot food takeaways). Many of the objections state that there are too many hot food takeaways. However considering that many of the larger units are in none food uses, that there remains a variety of tourist related businesses in the vicinity, and that policy SHP14 promotes food retail uses of a modest size it is not considered that there are grounds on which to refuse this application. The proposal is considered to be in accordance with saved Policies TR5, SHP14 and SHP15 of the Great Yarmouth Borough Wide Plan.
- 5.6** Whilst the number of food related businesses stated by objectors is relatively high in the wider area 28 out of 52 businesses, there is no policy stating a specific maximum percentage, floor area or length of frontage that can change to food uses. It is important to note that the number specified is not specifically hot food takeaways and also includes pubs serving food, restaurants, cafes and other food related uses which are located along the whole of Beach Road Prime Commercial Holiday Area, which is approximately 300m long. As shown in the analysis of the immediate vicinity, this change of use would not harm the character of the area, and does not reduce the areas retail offer significantly as the application site has a frontage of 5m.

- 5.7 Concerns have been raised regarding parking and highways, previously the use of the land as a shop would have generated some vehicular movements, and the proposed use would also result in vehicular movements. The site is located opposite the main private visitor car park for Beach Road and the road itself has double yellow lines along its whole length, so parking outside this business, as is the case with a proportion of businesses on Beach Road is not permitted. Therefore on balance the proposal is not considered to generate an unacceptable amount of vehicular movements that cannot be accommodated at neighbouring car parking areas and is therefore not detrimental to the parking or movement of traffic in the area.
- 5.8 A number of objections from businesses were received concerned with toilet provision. As the use of the site is a takeaway business with no onsite seating and all food to be eaten off of the premises the councils EH policy for toilet provision would only require staff toilets, and not public toilets. The applicant has submitted information subsequent to these comments being received to show that there is toilet provision and hand washing facilities on site for staff.
- 5.9 Equally, following comments from consultees, the applicant has confirmed that within land owned by his landlord, on adjoining land to the unit a waste bin can be stored and that he would enter into contract waste collection on a weekly basis from the site. From a site visit it is apparent that a waste bin could be stored on site accessed either to the rear, or with an additional section of fence, to the front, although a condition would be attached to any permission to ensure they remain in place in perpetuity.
- 5.10 It is important to make clear that the decision taken should be based on material planning considerations. The Town and Country Planning Act allows for retrospective planning applications, and that in considering these types of applications where some or all of the work has commenced, the fact that the council's consent was not sought prior to commencing work is not a material planning consideration. Additionally whilst the viability and vitality of the Prime Commercial Holiday Area is a material planning consideration, the planning system is not design to stifle competition between businesses and both Council Policies in the Core Strategy and the National Planning Policy Framework seek to support appropriate new businesses and investment.

6. Recommendation

6.1 Approval

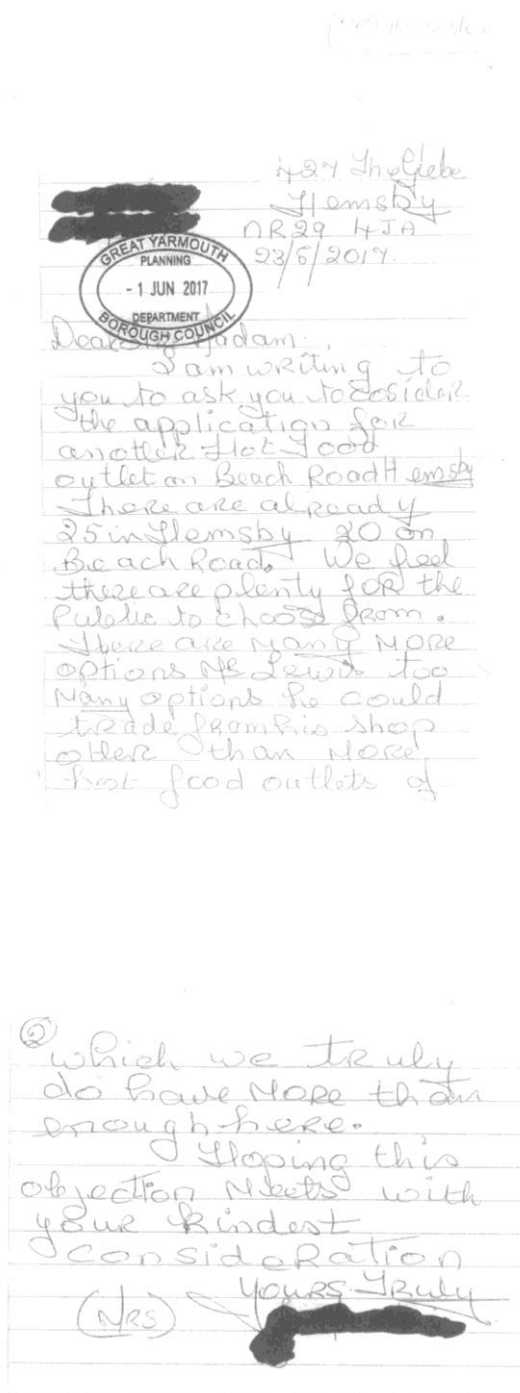
- 6.2 The application has shown that the use of the site for hot food takeaway would not harm the amenity of neighbouring businesses, nor the occupants of the nearest residential/holiday accommodation as the intensity of cooking is

relatively low, and there is sufficient distance to neighbours. The change of use of this 5.0m wide former retail unit to a hot food takeaway would not harm the character, viability or vitality of Hemsby Beach Road Prime Commercial Area to such an extent as to warrant refusal as there would remain a good mix of tourist centred land uses (see 1.3). As identified, whilst there are a relatively high number of food use businesses in the wider area, surrounding the application site retail and other tourist uses would remain and this application would not lead to an unacceptable proliferation of hot food takeaways.

- 6.3** The applicant has, following the consultation process included details of toilets, waste collection and storage which are sufficient to meet relevant policy. The scheme as a whole is considered to be in accordance with saved policies TR7, SHP14 and SHP15 of Great Yarmouth Borough Wide Local Plan 2001 and Adopted policy CS8 of the Great Yarmouth Local Plan – Core Strategy 2015. Subject to conditions limiting hours of operation (9.00-18.00 mon-Friday, 9.00-20.00 Sat/Sun/Bank Holidays, 9.00-22.30 Fireworks Nights), ensuring the continued provision of bins, and ensuring that the unit is in sole use as a take away with no indoor seating, the application is recommended for approval.

7.1 - Appendix 1 - Examples of Objection Letters

Objection letters can be viewed online or at the council offices.



Jill K. Smith

From: Jack Ibbotson
Sent: 06 June 2017 09:19
To: plan
Subject: FW: Planning application at 06/17/0313/cu

For file if Jason or Gemma haven't already had it added

Thanks

Jack

From: James Bensly
Sent: 05 June 2017 09:37
To: Jack Ibbotson
Cc: Gemma Manthorpe; Jason Beck
Subject: Fwd: Planning application at 06/17/0313/cu

Dear Jack

For the case file please.

Kind regards

James

Sent from my iPad

Begin forwarded message:

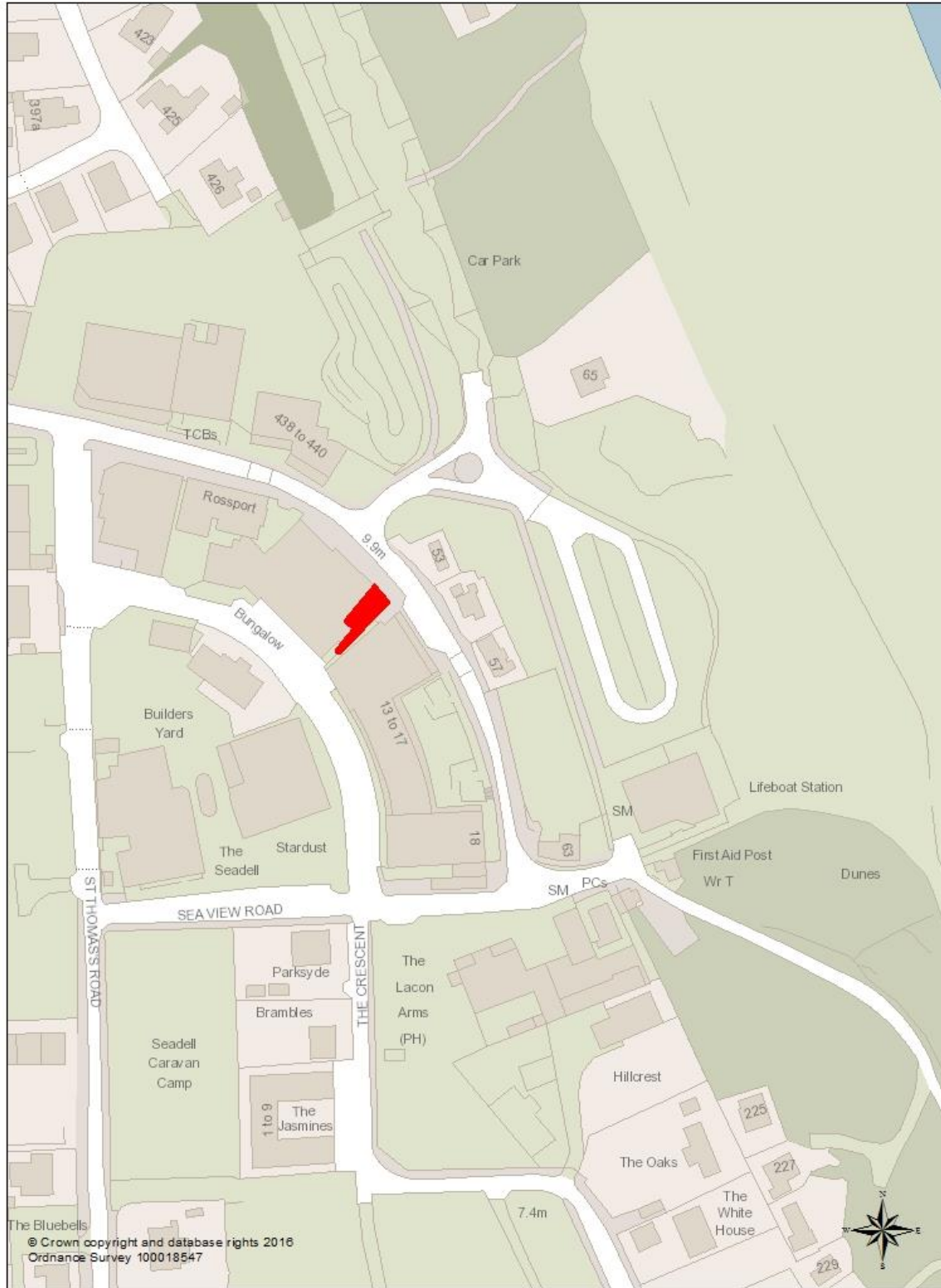
From: Dan [REDACTED]
Date: 4 June 2017 at 20:02:33 BST
To: "cllr.james.bensly@great-yarmouth.gov.uk" <cllr.james.bensly@great-yarmouth.gov.uk>
Subject: Planning application at 06/17/0313/cu

Dear Sir,

In regards to application 06/17/0313/CU I feel there are too many food establishments in the Hemsby area. With another opening it would become saturated and effect the local businesses along with quality of product offered as they would have to compete harder cutting costs where they can. This could lead to job loses and/or local businesses to shut.

Yours sincerely,

Daniel Hale
49Jasmine Gardens
Bradwell
Great Yarmouth
NR318HU



Great Yarmouth Borough Council

Town Hall, Hall Plain, Great Yarmouth, NR30 2QF

Mapping Browser Export

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