



# Development Management Committee

**Date:** Wednesday, 21 February 2024  
**Time:** 18:30  
**Venue:** Council Chamber  
**Address:** Town Hall, Hall Plain, Great Yarmouth, NR30 2QF

## AGENDA

### CONTENTS OF THE COMMITTEE AGENDA PLANNING APPLICATIONS & CONDUCT OF THE MEETING

#### Agenda Contents

This agenda contains the Officers' reports which are to be placed before the Committee. The reports contain copies of written representations received in connection with each application. Correspondence and submissions received in time for the preparations of the agenda are included. However, it should be noted that agendas are prepared at least 10 Working Days before the meeting. Representations received after this date will either:-

- (i) be copied and distributed prior to or at the meeting – if the representations raise new issues or matters of substance or,
- (ii) be reported orally and presented in summary form by the Principal Officer of the Committee – especially where representations are similar to, or repeat, previous submissions already contained in the agenda papers.

There are occasions when the number of representations are similar in nature and repeat the objections of others. In these cases it is not always possible for these to be included within the agenda papers. These are either summarised in the report (in terms of numbers received) and the main points highlighted or reported orally at the meeting. All documents are available as 'background papers' for public inspection.

## Conduct

Members of the Public should note that the conduct of the meeting and the procedures followed are controlled by the Chairman of the Committee or, if he/she so decides, the Vice Chairman. Any representations concerning Committee procedure or its conduct should be made in writing to either –

- (i) The Planning Group Manager, Town Hall, Great Yarmouth. NR30 2QF
- (ii) The Monitoring Officer, Town Hall, Great Yarmouth. NR30 2QF

## DEVELOPMENT CONTROL COMMITTEE

### PUBLIC CONSULTATION PROCEDURE

- (a) Thirty minutes only will be set aside at the beginning of each meeting to deal with applications where due notice has been given that the applicant, agent, supporters, objectors, and any interested party, Parish Council and other bodies (where appropriate) wish to speak.
- (b) Due notice of a request to speak shall be submitted in writing to the Planning Group Manager two days prior to the day of the Development Control Committee meeting.
- (c) In consultation with the Planning Group Manager, the Chairman will decide on which applications public speaking will be allowed.
- (d) Three minutes only (or five minutes on major applications at the discretion of the Chairman) will be allowed to (i) objectors together, (ii) an agent or applicant and (iii) supporters together, (iv) to a representative from the Parish Council and (v) Ward Councillors.
- (e) The order of presentation at Committee will be:-
  - (1) **Planning Officer presentation** with any technical questions from Members
  - (2) **Agents, applicant and supporters** with any technical questions from Members
  - (3) **Objectors and interested parties** with any technical questions from Members
  - (4) **Parish Council representatives, Ward Councillors and Others** with any technical questions from Members
  - (5) **Committee debate and decision**

## Protocol

A councillor on a planning or licensing decision making body should not participate in the decision and / or vote if they have not been present for the whole item.

This is an administrative law rule particularly applicable to planning and licensing - if you haven't heard all the evidence (for example because you have been out of the room for a short time) you shouldn't participate in the decision because your judgment of the merits is potentially skewed by not having heard all the evidence and representations.

It is a real and critical rule as failure to observe this may result in legal challenge and the decision being overturned."

## **1     APOLOGIES FOR ABSENCE**

To receive any apologies for absence.

## **2     DECLARATIONS OF INTEREST**

You have a Disclosable Pecuniary Interest in a matter to be discussed if it relates to something on your Register of Interests form. You must declare the interest and leave the room while the matter is dealt with.

You have a Personal Interest in a matter to be discussed if it affects

- your well being or financial position
- that of your family or close friends
- that of a club or society in which you have a management role
- that of another public body of which you are a member to a greater extent than others in your ward.

You must declare a personal interest but can speak and vote on the matter.

Whenever you declare an interest you must say why the interest arises, so that it can be included in the minutes.

## **3     MINUTES**

**5 - 12**

To confirm the minutes of the meeting held on the 24 January 2024.

## **4     APPLICATION 06 23 0758 VCU - Cliff Top Car Park, East of 70 to 75 Marine Parade, Gorleston**

**13 - 27**

Report attached.

## **5     APPLICATION 06 23 0393 VCF - Darwin Court, Nuffield Crescent, Gorleston**

**28 - 39**

Report attached.

## **6     APPLICATION 06 23 0831 CU - Club House, Florida Estate, Back Market Lane, Hemsby**

**40 - 53**

Report attached.

- |                  |  |          |
|------------------|--|----------|
| 7                | <b><u>APPLICATION 06 23 0678 VCF - Former Pontins Holiday Centre, Beach Road, Hemsby</u></b> | 54 - 73  |
| Report attached. |  |          |
| 8                | <b><u>APPLICATION 06 23 0847 CU - 1 Carrel Road, Gorleston</u></b>                           | 74 - 84  |
| Report attached. |  |          |
| 9                | <b><u>APPLICATION 06 23 0647 VCF - Ice House, Bridge Road, Great Yarmouth</u></b>            | 85 - 97  |
| Report attached. |  |          |
| 10               | <b><u>APPLICATION 06 23 0719 LB - Ice House, Bridge Road, Great Yarmouth</u></b>             | 98 - 106 |
| Report attached. |  |          |



# Development Management Committee

## Minutes

Wednesday, 24 January 2024 at 18:30

### PRESENT:-

Councillor A Wright (in the Chair); Councillors Annison, Bird, Boyd, Capewell, Freeman, Galer, Green, Martin, Mogford, Murray-Smith & Williamson.

Councillor P Carpenter attended as a County Councillor.

Mr A Chrusciak (Interim Head of Planning), Ms C Whatling (Monitoring Officer), Mr R Parkinson (Development Manager), Mr N Harriss (Principal Planning Officer), Mr M Joyce (Principal Planning Officer), Mr M Brett (IT Support) & Mrs C Webb (Democratic Services Officer).

### 01 APOLOGIES FOR ABSENCE

There were no apologies for absence given at the meeting.

### 02 DECLARATIONS OF INTEREST

Councillors Bird, Boyd & Freeman declared a personal interest in item 4 as they were Ward Councillors whose ward included the application site or part of.

Councillor Annison declared a personal interest in item 5 as he was a County

Councillor for the Breydon Division.

Councillor Williamson declared a personal interest in item 5 as he lived in the vicinity of Rose Farm, Belton.

Councillor Murray-Smith declared a personal interest in item 5 as he was a Ward Councillor and in item 6 as he owned a holiday home adjacent to the application site.

However, in accordance with the Council's Constitution were allowed to both speak and vote on the items.

### **03 MINUTES**

The minutes of the meeting held on 18 December 2023 were confirmed.

### **04 APPLICATION 06 23 0616 D - Land at Nova Scotia Farm, west of Jack Chase Way, West Caister**

The Committee received and considered the report from the Principal Planning Officer and the update addendum report dated 24 January 2024.

The Principal Planning Officer gave a presentation to the Committee and reported that the circumstances relating to this application were considered to be unusual, and a timely decision was essential to assist the provision of ongoing housing delivery at Caister and support the local construction industry, whilst avoiding the seasonal embargo which prohibited works on the strategic highway network at Jack Chase Way during the summer months. In light of these circumstances, it was recommended that the Committee agree to delegate full powers to the Interim Head of Planning, in consultation with the Chairman of Development Management Committee, to determine the application reference 06-23-0616-D.

The Principal Planning Officer reported the updates which had been received since the DM Committee agenda had been published to ensure that Members were aware of all the salient information to enable them to reach an informed decision.

Councillor Galer asked for confirmation as to whether the application had suffered from any particular delay. The Principal Planning Officer reported that the application process was where it was expected to be at this time.

Councillor Freeman asked for clarification as to whether the dates of the highways embargo was set in stone. The Principal Planning Officer reported that the embargo was set by NCC.

Councillor Murray-Smith asked for clarification as to when a decision would need to be made. The Interim Head of Planning reported that he could not give a definitive date as this was reliant on the outstanding consultation responses and third party consultation responses and the amount of work needed to address them.

Councillor Murray-Smith suggested that as this was a major, sensitive application, an

additional DM Committee meeting could be held in February to allow the Committee to make the decision. The Interim Head of Planning reported that the consultation period ended on 5 February 2024 and the next DM Committee was scheduled for 24 February 2024, which would be too tight to avoid the highways embargo. An additional meeting would also require the reports to be published in the public domain for 5 clear working days prior to the meeting. Councillor Murray-Smith asked for clarification that the delegation of the decision would therefore save 5 working days. The Interim Head of Planning confirmed that this assumption was correct.

Debi Sherman, applicant's agent, addressed the Committee and reiterated the salient points for the need for the decision to be delegated to the Head of Planning following the closure of the public consultation on 5 February 2024 to allow works to commence on-site in early March 2024 on the access to the site at Ormesby Road at a cost of up to a £1m. This would beat the time concerns in relation to the highways embargo and Judicial Review matters in mid-March. Otherwise works would not be able to commence until September 2024 and Persimmon would not be able to deliver any homes this year resulting in a loss of £340k in s106 payments and numerous redundancies on-site.

Parish Councillor, Kevin Wood, addressed the Committee and reported the concerns of local residents. The main concern was the loss of any hedgerows and mature trees as a result of the planned development on the site. The parish Council had real concerns regarding environmental issues associated with the development and were awaiting correspondence from Persimmon detailing the outcome of a recent meeting.

County Councillor P Carpenter informed the Committee that she did not wish to address them this evening.

Councillor Annison reported that he had served on the DM Committee for several years and it did not sit right with him to give delegated powers to officers in regard to such a contentious application which generated much public interest and that he wished the whole process to be transparent and therefore he could not support the officer recommendation.

Councillor Freeman, Boyd, Murray-Smith & Galer reported that they strongly supported the views of Councillor Annison.

Councillor Annison proposed that the application be brought back to Committee as a one item agenda at the earliest opportunity in February.

Councillor Capewell asked the Monitoring Officer if there was a way of getting around the 5 clear working days CMIS publishing of the agenda rule, as if the homes were not built, this would be a serious loss to the borough. The Monitoring Officer confirmed that the 5 clear working days rule could not be altered and that Members could either defer the item to the next scheduled DM Committee meeting of the 24 February 2024 or hold another meeting in February, the exact to be determined outside of this meeting following the closure of the consultation period on 5 February 2024.

The Interim Head of Planning confirmed that an additional meeting could be scheduled for 17 February 2024. He reminded the Committee that this was a Reserved Matters application and the first phase of several phases. Approval had already been granted for the application and the Reserved matters would just put the "meat on the bones" for the design and layout and it would not revisit the principles of the development.

Following a vote, the recommendation that the Committee agree to delegate full powers to the Head of Planning, in consultation with the Chairman of Development Management Committee, to determine the application, was lost.

Councillor Annison proposed that the application be brought to the Development Management Committee for determination as soon as officers have completed their assessment. Consideration to be given to holding an additional meeting of the Development Management Committee at the earliest opportunity to prevent delays. This proposal was seconded by Councillor Mogford.

Following a vote, it was RESOLVED:-

That the application be brought to the Development Management Committee for determination as soon as officers have completed their assessment. Consideration to be given to holding an additional meeting of the Development Management Committee at the earliest opportunity to prevent delays.

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## **05 APPLICATION 06 22 1104 F - Rose Farm Touring Park, Stepshort, Belton**

The Committee received and considered the report from the Development Manager which was detailed on pages 17 to 62 of the agenda pack and the updated addendum report which was published on 24 January 2024.

The Development Manager reported that the proposed application was to regularise the use of existing holiday accommodation as residential with year-round occupancy. The proposal amounted to a new residential development across a site of more than 1ha in area. The application site was located behind Rose Cottage, the cottage was outside the application site but inside the development boundary. The expiry date of the application was 3 May 2023 and an extension of time was agreed to 30 May 2023 but the application was now subject to an appeal against non-determination.

The Development Manager reported that as the application was subject to an appeal made against the Council for non-determination of the application, the application as presented to Committee as the Planning Inspectorate must be informed of the intended outcome of the decision maker, were they still able to make the determination. Therefore, the Committee was asked to consider the application on the basis of the application and documentation as submitted, irrespective of the appeal. Although a decision notice from the LPA will not be issued, Officers will submit the minutes of the committee meeting and an associated LPA Appeal Statement to the Planning Inspectorate in due course.

The Development Manager reported that the Housing & Enabling Strategy Manager had commented that touring caravans did provide valued housing for Gypsy and Traveller Communities but reiterated that the use of touring caravans for permanent residential use outside of these communities was not something the Council would endorse.

The Development Manager informed Committee that a press advert and new site



notices had been issued to advise the public of the application being both a major development and contrary to the development plan. The consultation period expired on 16 February 2024 and any representations received will be sent to the Planning Inspectorate. The Development Manager reported an update to the report on paragraph 10.3 on page 30 of the agenda pack in regard to the Housing Officer's comments.

The Development Manager gave a detailed presentation, which detailed each of the 17 reasons why the Officers proposed that the application should be refused as the application presented many conflicts with the adopted development plan and was contrary to policies concerning:-

- the principle of development and development in the countryside;
  - the principle of residential development in inappropriate locations;
  - insufficient accessibility and connections with services, facilities and public transport links;
  - inadequate links to existing highways infrastructure networks;
  - inadequate facilities, infrastructure and standards of accommodation for future residents;
  - inadequate design and landscaping provision;
  - inadequate protection and integration of trees and hedges;
  - unacceptable impacts on landscape character and unacceptable development within the strategic gap between the settlements;
  - unacceptable impacts on ecology;
  - inadequate provisions for securing and providing the route of a strategic cycle and pedestrian route;
  - lack of affordable housing provision;
  - lack of provision for community infrastructure and planning obligations;
  - inadequate protection and mitigation for the effects on designated wildlife sites;
  - inadequate assessment and provision for flood risk and surface water drainage requirements;
  - inadequate assessment of the capacity of foul water drainage systems;
  - lack of suitable mitigation measures to minimise contributions to climate change;
- and,
- detrimental impacts from a loss of tourism accommodation and associated jobs and investment in the tourism sector.

As such the proposed development is considered to not accord with policies CS1, CS2, CS4, CS5, CS6, CS9, CS11, CS13, CS14, CS16 of the Great Yarmouth Core Strategy (2015) and does not accord with policies GSP1, GSP3, GSP4, GSP5, GSP6, GSP7, GSP8, UCS4, H2, H4, H5, H8, H11, A2, E1, E4, E6, E7, I1 and I3 of the Local Plan Part 2 (2021), and fails to address various requirements of the NPPF and the Conservation of Habitats and Species Regulations 2017, and should therefore be refused.

There are not considered to be any material considerations of sufficient weight to justify or overcome the conflict with adopted policy, and as such the application should be determined in accordance with the adopted development plan.

Councillor Williamson reported his concerns in regard to the transmission of pollution from the site to the ground water and local watercourses which was contrary to Policies E6 and CS11 and requested that an amendment be made to the recommendation citing this as a further reason for refusal. The amendment was seconded by Councillor Galer. Following a vote, this amendment was unanimously

carried by the Committee.

Councillor Annison was concerned in regard to the vast highways improvements which would be required and the width of the footpath provision especially the pinch-point at the telegraph pole which severely obstructed the footpath. He requested that an amendment be made to the recommendation citing the telegraph pole obstruction to the footpath as another reason for refusal. This amendment was seconded by Councillor Galer. Following a vote, this amendment was unanimously carried by the Committee.

The Interim Head of Planning suggested that the recommendation as detailed in the agenda report be agreed subject to the following amendments:-

- Amendment to Reason for Refusal 3 to add specific reference of the telegraph pole obstruction to the footpath
- Addition Reason for Refusal to raise concern about lack of information to address concerns regarding the transmission of pollution from the site to the ground water and local watercourses, contrary to Policies E6 and CS11.

Councillors Freeman reported that he strongly supported the officer recommendation to refuse the application.

RESOLVED:-

That in regard to application 06-22-1104-F, the Committee resolve to:-

(i) Confirm that, had the power to determine the application have continued to rest with the, they would have REFUSED the application for the reasons set out in pages 57-61 of the agenda report.

(ii) That powers be delegated to officers to amend or remove any of these reasons should it prove necessary to protect the Council's interests.

(iii) That an amendment to Reason for Refusal 3 to add specific reference of the telegraph pole obstruction to the footpath and an addition Reason for Refusal to raise concern about lack of information to address concerns regarding the transmission of pollution from the site to the ground water and local watercourses, contrary to Policies E6 and CS11.

**06 APPLICATION 06 23 0678 VCF - Former Pontins Holiday Centre, Beach Road, Hemsby - THIS ITEM HAS BEEN DEFERRED.**

The Chair reported that this item had been deferred.

**07 APPLICATION 06 23 0837 F - Site adjacent the ladies' Public Convenience, The Jetty, Marine Parade, Great Yarmouth**

The Committee received and considered the report from the Planning Officer which was detailed at pages 79-87 of the agenda pack.

The Development Manager informed the Committee that there was no further information detailed in the update addendum report in regard to this application which was for the proposed erection of a beach wheelchair store adjacent to the Ladies' Public Convenience, The Jetty, Marine Parade, Great Yarmouth. This was a connected application as the Council was both the applicant and landowner and that the application had therefore been referred to the Monitoring Officer.

The Development Manager reported that the application would provide a building of acceptable design and one which facilitated a public benefit. Having considered the details provided, the application is considered to comply with policies CS1, CS8, CS9, CS10 and Cs13 from the adopted Core Strategy, and policies GSp1, GSP4, GY6, E3, E5 and A1 from the adopted Local Plan Part 2 and the application was recommended for approval, with the conditions as set out on page 86 of the agenda report.

Councillor Galer asked for clarification as to whether the store would house only one wheelchair. The Development Manager reported that as these wheelchairs were rather large and bulky that there would only be room for one.

Councillor Mogford asked for an assurance that the building would be fit for purpose and that a users wheelchair could be safely stored and locked away whilst the beach wheelchair was in use. The Development Manager confirmed that the building was secure and lockable.

RESOLVED:-

That application 06-23-0837-F be delegated to the Head of Planning to approve subject to:-

- (i) Prior receipt of appropriate confirmation of proposed materials and design; and
- (ii) The conditions listed on page 86 of the agenda report, with any required amendment to their wording; or the inclusion of other conditions and/or informative notes; as considered to be appropriate by the Head of Planning.

## **08 APPLICATION 06 23 0139 F - Brush Quay Car Park, Quay Road, Gorleston**

The Committee received and considered the report from the Principal Planning Officer which was detailed at pages 88 to 99 of the agenda pack and the update addendum report which was published on 24 January 2024.

The Principal Planning Officer reported that the application was for a proposed replacement compound for the storage of bins, barrows and ancillary equipment with separate access off Quay Road with the erection of a steel store and a 2m high steel perimeter fence. This was an application submitted by the Council as applicant, for determination by the Council as Local Planning Authority, and as such, had been referred to the Monitoring Officer.

The Principal Planning Officer reported the salient points of the application to the Committee and that additional information had been received since the agenda had been published and the applicant had confirmed that they agreed with the proposed use of a condition limiting this to a two-year temporary permission to allow for a review.

The Principal Planning Officer concluded that the proposal represented sustainable development, and, when subject to conditions requiring mitigation, could be broadly in accordance with the relevant planning policy and guidance. Subject to conditions as set out on pages 96-98 of the agenda report, the proposal was recommended for approval.

Councillor Mogford asked whether the structure would be "seagull proof". The Principal Planning Officer confirmed that it would.

RESOLVED:-

That application 06-23-0139-F be approved subject to the conditions as set out on pages 96-98 of the agenda report and the additional condition limiting this to a two-year temporary permission to allow for a review.

## **09 ADDENDUM REPORT- 24 January 2024**

The Committee received and considered the Committee Update Addendum report dated 24 January 2024.

## **10 ANY OTHER BUSINESS**

The Chair reported that there was no other business being of sufficient urgency to warrant consideration at the meeting.

The meeting ended at: 20:30

## Development Management Committee Report



Committee Date: **21 February 2024**

Application Number	<b>06/23/0758/VCU</b> - Click <a href="#">here</a> to see the application webpage
Site Location	Cliff Top Car Park, East of 70 to 75 Marine Parade, Gorleston, Great Yarmouth, NR31 6EZ
Site Location Plan	See Appendix 1
Proposal	<p>Variation of Conditions 4 and 8 of planning permission 06/21/1018/CU (use of car park for stationing of up to 3 concession units), to amend restrictions on trading periods and:</p> <p>(1) allow trading for up to 220 days per year for the hot food takeaway uses between 1<sup>st</sup> March and 2<sup>nd</sup> January the following year; and,</p> <p>(2) change the seasonal opening times as follows: to trade from 7.30am - 6.00 pm between 1<sup>st</sup> November and 31<sup>st</sup> March; and, to trade from 7.30am to 8.00 pm between 1<sup>st</sup> April and 31<sup>st</sup> October.</p>
Applicant	Great Yarmouth Borough Council
Case Officer	Myles Joyce
Parish & Ward:	Gorleston Ward
Date Valid	23 <sup>rd</sup> November 2023
Expiry / EOT date	31 <sup>st</sup> January 2024
Reason at committee	Connected application – The Council is both the applicant and landowner
Procedural note	As an application submitted by the Borough Council as applicant, for determination by the Borough Council as Local Planning Authority, the application was referred to the Monitoring Officer on 12/01/2024 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**

## **P1. Preliminary Matter**

- P1.1 Members are reminded that case law has ruled that an application to remove or vary conditions on a planning permission has the effect of creating a new planning permission altogether. The determination of this proposal must have regard to the permission(s) already granted and the intended variations, and any material considerations relevant to the development since the previous permission was granted.

### **1. The Site/Background**

- 1.1 The site has been utilised as a public car park from at least 1988 and is located at the southern end of the Gorleston seafront and Marine Parade.
- 1.2 The car park has often included an ice cream van located in the car park as approved under 06/10/0616/F (*Renewal of P.P. 06/09/0655/CU - Parking of ice-cream van to sell ice-cream to the public all year round*).
- 1.3 The use of part of the car park for hot drinks sales from a mobile concession unit has been established since mid-2021. During the summer, autumn, and winter of 2021 the Council as landowner rented part of the car park to a mobile coffee vendor concession unit. This began as a use permitted under Part 3 of the Town and Country Planning (General Permitted Development) (England) Order (2015) (as amended). The Government, under their coronavirus provisions, temporarily extended the ability under permitted development rights to use the land for up to 56 days in a year.
- 1.5 Application 06/21/1018/CU was submitted to formalise the use because the mobile coffee sales unit proved so successful that the use exceeded that allowed under Permitted Development Rights and thus the applicant sought permission for the mobile coffee concession to continue on a permanent basis, for an unlimited number of occasions. At the same time the applicant proposed that the car park should also be allowed to be used for hosting other types of retail and food and drink sales, including hot food takeaways, also on a permanent basis.
- 1.6 Application 06/21/1018/CU was considered and approved by the Development Control Committee on 2<sup>nd</sup> March 2022. The application was for the change of use of part of the area used for car parking, to allow the stationing of up to three mobile concession units for the purpose of retail and for hot food takeaway at land to the east of 70-75 Marine Parade.
- 1.7 Application 06/22/0762/VCU was a variation of the first permission and was approved by Development Control Committee on 22 March 2023 which in effect created a second new permission subject to new conditions. The new permission allowed for the sale of hot drinks all year (with the exception of February) and relaxed hours of business to start at 07:30 (instead of 08:00) all year round with the closing times unaffected. As advised above this permission co-exists alongside the parent planning permission (06/21/1018/CU).
- 1.8 This application has arisen due to the continued popularity of both the hot drink and hot food take-away concession unit and the Council, as landowner, wishes to allow all of these units to trade on a permanent basis. The original planning permission under 06/21/1018/CU was for the change of use of part of the area used for car parking, to allow the stationing of up to three mobile concession units for the purpose of retail and for hot food takeaway, subject to a number of negatively worded conditions which are not proposed to be changed.

- 1.9 The original submission of this application sought permission to allow for year-round trading for all units and longer opening hours to mirror the hot drink concessionary unit granted under 06/22/0762/VCU. However, officers consider that this would in effect change the description of the proposal and as such the proposal would be outside the scope of a minor material amendment and therefore unable to be considered under section 73 of the Town and Country Planning Act 1990. As such, the proposed description of development was varied as above so as to not vary the description of the parent planning permission under 06/21/1018/CU, whilst taking into account the effect of the minor material amendments which were granted planning permission under 06/22/0762/VCU.

## **2. The Proposal**

- 2.1 The proposal is for the Variation of Conditions 4 and 8 of planning permission 06/21/1018/CU to:
- (1) allow trading for up to 220 days per year for the hot food takeaway uses between 1<sup>st</sup> March and 2<sup>nd</sup> January the following year; and,
  - (2) change the seasonal opening times as follows: to trade from 7.30am - 6.00 pm between 1<sup>st</sup> November and 31<sup>st</sup> March; and, to trade from 7.30am to 8.00 pm between 1<sup>st</sup> April and 31<sup>st</sup> October.
- 2.2 Application 06/21/1018/CU was approved for the *“Proposed change of use of land for the mixed use purpose of car parking and temporary stationing of up to 3 no. mobile concession units for the purposes of retail (use class E1a) and/or hot food takeaway (sui generis) use”*, which was subject to conditions.
- 2.3 This application relates to Condition 4 to allow both the hot drink and hot food take away concession units to trade for more months throughout the year, and Condition 8 to amend the trading hours to allow all the concession units to commence its use 30 minutes earlier each day.
- 2.4 This will further extend the relaxation in permitted hours and trading of the hot drinks concession unit beyond those relaxed hours approved under 06/22/0762/VCU.

## **3. Relevant Site Constraints**

- 3.1 The site lies within Gorleston Conservation area and is outside but adjacent to the Coastal Change Management Area. The unadopted Gorleston Masterplan also covers the site.

## **4. Relevant Planning History**

- 4.1 06/21/1018/CU  
Proposed change of use of land for the mixed-use purpose of car parking and temporary stationing of up to 3 no. mobile concession units for the purposes of retail (use class E1a) and/or hot food takeaway (sui generis) use.  
Permission was granted on 11 May 2022, following the meeting of the Development Control Committee on 2 March 2022 and subsequent receipt of necessary additional information from the applicant.

- 4.2 06/22/0762/VCU  
Variation of conditions 4 and 8 to allow for the all-year-round trading of the hot drink concession unit and relaxation of the permitted hours of said unit from 0800 to 0730 with no change to the closing times.  
Permission granted on 23<sup>rd</sup> March 2023 following the meeting of the Development Control Committee on 07 March 2023.
- 4.3 06/10/0616/F  
Renewal of P.P. 06/09/0655/CU - Parking of ice-cream van to sell ice-cream to the public all year round  
Approved 22/11/2010.
- 4.4 06/09/0655/CU  
Proposed use of existing car park space for parking of ice-cream van to sell ice-cream to the public all year round  
Approved 20/11/2009.

## 5. Consultations

- 5.1 Public consultation was undertaken by site notice and in the press.

5.2 Local Highway Authority

**No objection**

5.3 Strategic Planning

- 5.3.1 The Gorleston Masterplan whilst not adopted identifies some of the existing concession offer is limited and recognises that new, small scale, (retail, leisure) and food and drink concessions could help to improve the offer and increase numbers of visitors to the seafront. However, it does recognise that the number of concessions needs to be carefully balanced to ensure the unique character of the area is not undermined, nor detracts business from Gorleston town centre. It is broadly supportive of new retailing uses along the seafront which are complementary and ancillary to the tourism offer of Gorleston seafront, and where these do not impact on the unique character of the area. The most relevant policies for consideration will be Policy L2 and A1.

5.4 Environmental Health Officer

**No objections.**

- 5.4.1 No complaints have been registered with regard to noise, odour or litter associated with the current activities of the car park. Sufficient litter provisions are in place.

## 6. Publicity & Representations received

- 6.1 Consultations undertaken: Site notices erected 1.12.23 and Press Advert 1.12.23. The consultation period expired on 22<sup>nd</sup> December 2023. Reasons for consultation: Development within a Conservation Area.



6.2 Ward Members – Cllr(s) Emma Flaxman-Taylor and Paul Wells

6.2.1 No representations made at the time of writing.

6.3 Public Representations

6.3.1 At the time of writing 15 public comments were received to the original submission; 12 objections, and 2 no objections and 1 public comments. The representations raised are summarised below.

**Objections / Concerns**

Material planning concerns

6.3.2 3rd parties: obstructing vehicles (highway safety), noise pollution, odour, litter, ASB (amenity) contrary to masterplan (policy), nuisance (ASB), sufficient food and drink facilities (cumulative), cumulative increase in use (amenity), loss of car parking spaces (CP standards), flammable fuels to power units (HSE).

6.3.3 Officers would advise that the Environmental Protection team has confirmed that no noise

Non-planning concerns

6.3.4 Flammable materials. Nuisance and anti-social behaviour, and toilet facilities.

**7. Relevant Planning Policies**

7.1 The Great Yarmouth Core Strategy (adopted 2015)

- Policy CS1: Focusing on a sustainable future
- Policy CS2: Achieving sustainable growth
- Policy CS6: Supporting the local economy
- Policy CS7: Strengthening our centres
- Policy CS8: Promoting tourism, leisure and culture
- Policy CS10: Safeguarding local heritage assets
- Policy CS16: Improving accessibility and transport

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

- Policy GSP1: Development Limits
- Policy GSP4: Coastal Change Management Area
- Policy A1: Amenity
- Policy L2: New or expanded tourist facilities outside of Development Limits and Holiday Accommodation Areas
- Policy E5: Historic environment and heritage
- Policy E6: Pollution and hazards in development
- Policy R1: Location of retail development

- Policy R6: Kiosks and stalls
- Policy R7: Food and drink amenity
- Policy I1: Vehicle parking for developments

## 8. Other Material Planning Considerations

### National Planning Policy Framework (December 2023)

- Section 2: Achieving sustainable development
- Section 4: Decision Making
- Section 8: Promoting healthy and safe communities
- Section 9: Promoting sustainable transport
- Section 12: Achieving well designed place
- 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.*

### Main Issues

9.3 The main planning issues for consideration include:

- Principle of development;
- Impact upon amenity (Conditions 4 and 8 of 06/21/1018/CU)
- Whether or not year-round use for the concession units is acceptable (Condition 8).
- Other matters

## 10. Assessment

### Principle of Development

10.1 The principle of the development was established through the grant of planning permission under reference 06/21/1018/CU, which Members resolved to approve at the Development Control Committee on 2<sup>nd</sup> March 2022.

- 10.2 This application seeks a variation of Condition 4 of 06/21/1018/CU to allow for the two hot food concession units to trade for 220 days between 1<sup>st</sup> March and 2<sup>nd</sup> January inclusive (rather than for any 190 days between 1<sup>st</sup> March and 30<sup>th</sup> September as currently permitted), and variation of Condition 8 to change the trading hours (to start at 07:30hrs instead of 08:00hrs) for the hot food units in line with the hot drinks concession unit.
- 10.3 This application is made under Section 73 of the Town and Country Planning Act 1990 (as amended), which allows 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. The original planning permission will continue to subsist until it is clear which application is the implemented one if the application is approved. Section 73 does not apply if the original permission was not implemented lawfully or within the in time required for commencement. This is not the case because the original permission was granted on 11<sup>th</sup> May 2022.
- 10.4 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).
- 10.5 On balance, it is considered the amended form of development still complies with the general aims of Local Plan Part 2 policies CS8 and L2 because it proposes a complementary offer to the tourism trade without creating a cumulative effect whereby the retailing activity would draw trade away from the retail offer in more sustainable locations including defined local centres, which would be contrary to policies CS6 and R1.

#### Impact upon Amenity

- 10.6 Policy A1 of the Great Yarmouth Local Plan Part 2 (2021) 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.
- 10.7 Planning permission was originally approved subject to the following Condition 4:
- The car park shall only be used for the stationing of the mobile concession units hereby approved, for a maximum of 190 days per year, and only between 01st March and 30th September in any calendar year.*
- Upon first use by a concession unit(s), a log of all occasions of concession unit operation within the car park shall be maintained by the applicant and shall be made permanently available for inspection at any time by the Local Planning Authority.*
- The reason for the condition is:-*
- To enable the Local Planning Authority to retain control over the use of the site because the main town centre retailing uses proposed should ordinarily be directed to defined local*

*centres unless evidence justifies their location elsewhere, but in this instance the limited retail offer is considered appropriate to enhance a tourism offer and provide a visitor attraction in line with Local Plan Part 2 policy L2, whilst being necessary to avoid a detrimental impact on local centres sites, and minimising the impact on neighbouring residential amenity, as required by Local Plan Part 2 policies R7 and A1.*

- 10.8 The applicant is seeking to amend this condition to extend the total number of trading days and trading periods as set out above for the hot food concessionary units.
- 10.9 Condition 8 of the permission 06/21/1018/CU states:
- The use of the site for mobile concession units hereby permitted shall not be undertaken nor provide for sales to the public outside the hours of:*
- 08:00 - 18:00 Monday to Saturday, between 01 October - 30th April in any year;
  - 08:00 - 20:00 Monday to Saturday, between 01 May - 30th September in any year; and,
  - 08:00 - 16:00 on any Sunday, and Bank or Public Holiday in any year.
- The reason for the condition is:-*
- In the interests of protecting the residential amenities of occupiers of nearby dwellings.*
- 10.10 The applicant seeks to amend this condition to allow the three concession units to all commence at 07:30 instead of 08:00hrs.
- 10.11 The Environmental Protection Team reviewed the request and advised that no noise complaints have been received at the time of their response, as such, they would not be raising an objection on amenity grounds to either condition being varied. They did advise that an informative with regard to noise and disturbance and a contact number be added.
- 10.12 Objections were raised to this proposal with regard to the generation of noise, disturbance and littering. Whilst there are amenity issues, officer consider that the limiting conditions which retained from 06/21/1018/CU are sufficient on mitigate any potential adverse amenity issues arising. On the basis of no objection from the Environmental Protection Team and the distance from the residential properties, it is considered that a starting time of 07:30hrs instead of 08:00hrs is acceptable. It does not mean that the concession units have to operate all of these hours, it would mean that there is the flexibility to operate for all or part of these hours.
- 10.13 In the strictest sense, the extant existing permission was granted to allow up to three retailing use units (which includes hot drinks sales), and all three could have been hot food takeaway units, but only up to a maximum of three units in total at any one time. It is considered necessary and reasonable to allow the variation to apply and this is reflected in the varied conditions proposed by Officers.
- 10.14 On balance officers consider that the proposal would be considered acceptable in accordance with Policies R7 and A1 of the Great Yarmouth Local Plan Part 2 (2021).

Whether or not the amended operating months for the hot food take-away concession unit is acceptable

- 10.15 The original permission was granted with the description of *“Proposed change of use of land for the mixed use purpose of car parking and temporary stationing of up to 3 no. mobile concession units for the purposes of retail (use class E1a) and/or hot food takeaway (sui generis) use”*.
- 10.16 As a result, it is not possible to allow a permanent use of the site under this proposal because it would alter the description of development because it would no longer be temporary.
- 10.17 The applicant has confirmed that, on this basis, they are now seeking permission for the two hot food concession units to operate between 1st March and 2<sup>nd</sup> January the following year, with no operations in February of any year, and for up to 220 trading days annually. Whilst this is longer than the original permission (and the consequent S73 variation) allows, it can still be argued as falling under the “temporary use” definition because it is not to operate throughout the whole year.
- 10.18 The Environmental Health Team reviewed the application and confirmed no complaints have been received to date about the use and, as such, would not raise any objections to the proposal.
- 10.19 Based upon the above together with the applicant accepting that year-round use does not fall under the definition of the original description of development, it is considered that operating between March and January would be acceptable and comply with Policies R7 and A1 of the Great Yarmouth Local Plan Part 2 (2021).

Other Matters

- 10.20 The proposal would not involve any material changes to the external appearance of the existing units or the car park overall and as such would have no material impact on the Character and Appearance of the Conservation Area and therefore would accord with Policies CS10 of the Core Strategy (2015) and E5 of the Local Plan Part 2 (2021).
- 10.21 Some concerns were raised with regard to the impact on traffic and highway safety. However the County Highway Authority do not object to the proposal and officers do not consider there to be any adverse material change in car parking places, vehicular movements or highways safety as a consequence of the more liberal trading restrictions proposed and as such that the proposal accords with Policy CS16 of the Core Strategy and I1 of the Local Plan Part 2 (2021).
- 10.22 The site lies within Flood Zone 1 and as such there are no anticipated issues with regard to flood risk.
- 10.23 With regard to Policy Harm, Strategic Planning have advised that the Gorleston Masterplan identifies some of the existing concession offer is limited and recognises that new, small scale, (retail, leisure) and food and drink concessions could help to improve the offer and increase numbers of visitors to the seafront. However, it does recognise that the number of concessions needs to be carefully balanced to ensure the unique character of the area is not undermined, nor detracts business from Gorleston town centre.

- 10.24 Clearly the extended trading hours and increased permanence of the outlets will be a consideration as to whether this 'tips over' what the Gorleston Masterplan is broadly endorsing, however need to be mindful the Masterplan is not a planning document, albeit formally adopted by the Council's (former) Policy and Resources Committees, therefore should only be given very limited weight in any decision taking. The most relevant policies for consideration will be Policy L2 and A1.
- 10.25 With regard to parking and Highway safety, the County Highway Authority has no objections to this proposal. With regard to Heritage Issues the Conservation Officer has no comments to make. Officers will give the above consultation responses considerable weight in their appraisal of the proposal.
- 10.26 In relation to the other points raised in the public responses: flammable materials is a Health and Safety and not a Planning Matter. Nuisance and anti-social behaviour likewise are not planning matters and toilet facilities are not planning matters.

#### Local Finance Considerations

- 10.27 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 application submission sought to amend the trading hours and allow the increase in trading days of the hot food concessionary units from 190 to 220 days per year and to increase the period of trading from 1<sup>st</sup> March to 2<sup>nd</sup> January inclusive. In addition, to increase the hours of business to align with the hot drinks concession unit variation which was granted under 06/22/0762/VCU. This would still fall within the scope of a Section 73 application as it retains the same operative description of the original permitted proposal.
- 11.2 The proposal is acceptable due to the small scale and generally benign nature of the operations to which the Environmental Protection team has raised no objection.
- 11.3 Overall, it is considered that the proposal in its amended form, on balance, is acceptable to grant planning permission, because the proposal is able to continue to offer a complementary facility for the tourism sector and maintain an appropriate character of use that does not cause unacceptable detrimental impact to neighbours.

### **12. Conclusion**

- 12.1 The proposal is for the variation of two conditions on a previous and still extant permission, one variation relating to amending the trading hours, the other variation relating to a change in the months one of the three concession units can trade for. This widens the change to cover all three concession units. However, to ensure the application falls within the scope of the original planning permission granted under 06/21/1018/CU, and remain a

'temporary use', it is considered necessary and reasonable to require that no trading shall take place for any unit outside of 1<sup>st</sup> March to 2<sup>nd</sup> January annually (ie January and February remain 'fallow' months).

- 12.2 Having considered the details provided, the proposal is considered to be acceptable and the conditions will be amended accordingly, together with the remaining conditions imposed (and amended where appropriate, for example to reflect that the development commenced under the previous permission).

### **13. Recommendation**

- 13.1 It is recommended that the application be APPROVED subject to the following conditions.

#### **Conditions**

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

1. The development shall be carried out in accordance with the application form and following approved plans as approved under 06/21/1018/CU:
  - a) Unreferenced Drawing entitled Application Plan & Concession Zones (submitted as the Location Plan and zones for the concession units), (undated);
  - b) Drawing Number MH/10023464346/001, entitled Block Plan (submitted to illustrate individual stall site layout example, with dimensions of stall areas), dated December 2021;
  - c) Sample Barrier Image (unreferenced, untitled and undated).

Reason: For the avoidance of doubt.

##### Limited number of concession units

2. There shall be no more than three (3 no.) mobile concession units stationed within and operating from the application site shown on approved plan ref: Application Plan and Concession Zones (as submitted and approved under 06/21/1018/CU), at any one time. The concession units shall not be stationed outside the three areas identified as the Concession Zones shown on the approved 'Application Plan & Concession Zones' plan.

For the avoidance of doubt, this does not prejudice the continued parking of a single ice cream van selling ice-cream to the public all year round, between 10am and 6pm on any day, in accordance with the terms of planning permission 06/10/0616/F.

Reason: To minimise the harm to the surrounding heritage asset whilst affording the applicant time to appraise the requirements for the site and seek a potentially more appropriate location for this development in the interests of the preservation and enhancement of the conservation area and visual association with listed buildings.

#### Limiting Condition - Permitted uses

3. (A) This permission shall endure for the stationing of up to three (3 no.) mobile concession units only, at any one time.
- (B) The car park shall not be used for the stationing of hot food takeaway mobile concession units or retailing (other than the sales of hot drinks from a single concession unit in accordance with part C of this condition) for any more than 220 days per year, and these uses shall not take place at any time between 3rd January and 01st March the following year.
- (C) Hot food takeaway mobile concession units shall not be stationed at, operated from, or undertake sales to the public from the site outside the hours of:
- 07:30 to 18:00 Monday to Saturday, between 01 March - 30th April inclusive;
  - 07:30 - 20:00 Monday to Saturday, between 01 May - 30th September inclusive; and,
  - 07:30 - 16:00 on any Sunday, and Bank or Public Holiday in any year during these months.
- (D) There shall no use of the car park for the stationing of hot drinks sales concession units nor hot food take away units outside of 1st March and 31st January inclusive in any year.
- (E) Hot drink sales mobile concession units shall not be stationed at, operated from, or undertake sales to the public from the site outside the hours of:
- 07:30 to 18:00 Monday to Saturday, between 01 March - 30th April inclusive;
  - 07:30 - 20:00 Monday to Saturday, between 01 May – 31st January inclusive; and,
  - 07:30 - 16:00 on any Sunday, and Bank or Public Holiday in any year during these months when the hot drink sales use is permitted by this condition.
- (F) A log of all occasions of use by all mobile concession units operating within the car park shall be retained by the applicant and shall be made permanently available for inspection at any time by the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain control over the use of the site because the main town centre retailing uses proposed should ordinarily be directed to defined local centres unless evidence justifies their location elsewhere, but in this instance the limited retail offer is considered appropriate to enhance a tourism offer and provide a visitor attraction in line with Local Plan Part 2 policy L2, whilst being necessary to avoid a detrimental impact on local centres sites, and in the interests of minimising the impact on the residential amenities of occupiers of nearby dwellings in accordance with Policies R7 and A1 of the adopted Great Yarmouth Local Plan Part 2 (2021).

#### Limit to use of concession unit

4. Mobile concession units providing hot food takeaway use (sui generis use) (note, this does not include hot drinks) shall be located only in the 2no. Concession Zones on the eastern side of the car park. Hot food takeaway concession units shall not at any time be located within the Concession Zone on the western side of the car park, as shown within the approved plan reference 'Application Plan & Concession Zones'.



Reason: In the interests of protecting the residential amenities of the occupiers of nearby dwellings in accordance with Policies R7 and A1 of the adopted Great Yarmouth Local Plan Part 2 (2021).

#### Limit to use of concession units

5. The mobile concession units hereby approved shall not be larger in area than one demarcated parking space measured at 2.5m wide by 5.5m length as shown on approved plan reference MH/10023464346. Concession units shall occupy only one parking space at any one time and shall only be sited within a single parking space.

Reason: In order to minimise the loss of available parking spaces, to avoid a detrimental impact on the local traffic network, and to ensure satisfactory off-street parking facilities remain in place for visitor parking in accordance with Policies R7 and A1 of the adopted Great Yarmouth Local Plan Part 2 (2021).

#### Heritage and Conservation

6. The mobile concession units utilising the concession zones operating pursuant to this permission shall not exceed 3m in height at any time.

Reason: To protect the visual impacts of the setting of the historic environment within Conservation Area No. 17 Gorleston Seafront in accordance with Policy E5 of the adopted Great Yarmouth Local Plan Part 2 (2021).

#### Heritage and Conservation

7. All mobile concession units shall be removed from the Gorleston Cliff Top Car Park when not in use. No mobile concession units shall be parked anywhere within the car park application site nor the adjoining car park outside the application site outside the permitted hours of use. All concession units shall be removed from the car park within 30 minutes of the end of the permitted hours of trading use set out within the Conditions of this permission.

Reason: In the interest of the visual impacts of the setting of the historic environment within Conservation Area No. 17 Gorleston Seafront in accordance with Policy E5 of the adopted Great Yarmouth Local Plan Part 2 (2021).

#### Amenity Considerations

8. No mobile concession units operating pursuant to this permission shall include or use any externally located generators.

Reason: In the interest of protecting the amenity of nearby dwellings and minimising noise and air pollution in accordance with Policies R7 and A1 of the adopted Great Yarmouth Local Plan Part 2 (2021).

#### Amenity and Highway Considerations

9. Each individual mobile concession unit parking area, as shown in approved plan reference MH/10023464346, shall at all times be demarcated with appropriate division between adjoining parking spaces, in accordance with the intention proposed within the approved 'sample barrier image' detail approved under 06/21/1018/CU. The barriers shall be installed and retained for the full duration of the period that the mobile concession unit(s) is in use. The site management / car park operators shall ensure that these are installed before the commencement of the use on each occasion of a concession unit being stationed within the

site, and shall ensure that these are removed by site management at the cessation of each concession unit's parking within the site.

Reason: To allow suitable separation between the users of the mobile concessions and the moving traffic and to ensure there is minimal disruption to the availability of parking spaces within the site in accordance with Policies R7 and A1 of the adopted Great Yarmouth Local Plan Part 2 (2021).

#### Amenity Considerations

10. Each mobile concession unit operating pursuant to this permission shall be responsible for providing a refuse bin for use by its customers during its hours of operation, and shall be responsible for removing the waste from the site after each use for appropriate disposal.

Reason: In the interests of the amenity of local residents and businesses and to protect the visual attraction and amenity of the area, to ensure a satisfactory form of development, and to ensure the development is accountable for its own waste and to not increase pressure on existing facilities in and around the application site in accordance with Policies R7 and A1 of the adopted Great Yarmouth Local Plan Part 2 (2021).

#### Amenity Considerations

11. With the exception of a single temporary sandwich board / 'A'-frame board per concession unit, there shall be no signage, banners, separate stalls, picnic benches, tables or chairs installed associated with the use without first gaining the express written permission from the Local Planning Authority.

Reason: In the interest of protecting the visual quality of the setting of the historic environment within Conservation Area No. 17 Gorleston Seafront, to avoid creating a sense of permanent retailing activity, and to protect the visual amenities of the adjacent residential properties in accordance with Policies R7 and A1 of the adopted Great Yarmouth Local Plan Part 2 (2021).

#### Amenity Considerations

12. There shall be no use of amplified music or amplified loudspeaker/tannoy/audio systems associated with the use or as part of any mobile concession unit operating pursuant to this permission.

Reason: In the interests of the residential amenities of the occupiers of nearby dwellings in accordance with Policies R7 and A1 of the adopted Great Yarmouth Local Plan Part 2 (2021).

#### **Informative Notes**

- 1 Informative Note: Amenity  
The applicant is reminded that noise and odour complaints received by the Environmental Protection Team would be investigated under the Environmental Protection Act 1990 (Sections 79 & 80) and can result in an abatement notice being served if a statutory noise nuisance is identified.
- 2 Informative Note: 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**



# Development Management Committee Report



Committee Date: **21 February 2024**

Application Number **06/23/0393/VCF** - Click [here](#) to see the application webpage

Site Location Darwin Court, Nuffield Crescent, Gorleston, Great Yarmouth, NR31 7LP

Proposal Retrospective application for a variation of Conditions 2 (approved plans) and 9 (Landscaping) of pp. 06/14/0773/F (Construction of 46 no. dwellings with associated parking and site works on site of former residential care home) - Amendment to surface water drainage soakaway location and revised timescale for tree planting

Applicant Mr Michael Coe, Holly Lodge, 118 Corton Long Lane, Corton, Lowestoft NR32 5HD

Case officer Rob Tate

Parish & Ward Magdalen Ward, Gorleston

Date Valid 30-05-23

Expiry / EoT Date 23-02-24

Reason at committee Constitution: This is a major development of more than 25 dwellings.

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

### 1. The Site and Proposal

- 1.1. The application site is 0.82 ha in area and previously contained the Magdalen House care home. In 2016 planning permission was granted for the "Construction of 46 no. dwellings with associated parking and site works on site of former residential care home" (permission ref. 06/14/0773/F). The permission created a square of four rows of terraced houses around an internal parking courtyard and at the centre of the courtyard was a small landscaped space also surrounded by parking. The dwellings have been constructed and the scheme has been fully occupied since July 2020.
- 1.2. This application has been submitted retrospectively to propose regularising the current development which has not been carried out in accordance with the details required by the approved planning permission 06/14/0773/F.
- 1.3. Specifically, the surface water drainage soakaway has not been installed as per the approved drawings, because it was required to be located underneath the shared parking area but it has been relocated to the area of green space at the centre of the parking court.

- 1.4. It is also clear that the applicant has failed to provide any of the tree planting necessary required as part of the development, neither within the interior nor around the outward-facing perimeter streets, contrary to the approved planting/landscaping scheme details and therefore in breach of conditions. The tree planting which had not been undertaken by mid-January 2024 is:
- 7no. street trees have not been provided on Nuffield Crescent, Hertford Way and Magdalen Way; and,
  - 2no. trees have not been planted within the site's interior on the central island open space.
- 1.5. The application initially proposed an amended landscaping scheme which sought approval to remove the existing requirement to provide the trees as approved. However, that proposed landscaping scheme was considered to be unacceptable and a retrograde step which could not be supported. The applicant was made aware that their proposed amended landscaping scheme would not be supported, and has recently agreed to implement the original landscaping scheme.
- 1.6. The current application has been amended accordingly. It now seeks (retrospective) permission for just the revised soakaway location.

## **2. Relevant Site Constraints**

- 2.1 The site is within the development limits defined by GSP1.
- 2.2 Part of the site is at medium risk of Surface Water Flooding (in in 100 year event risk).
- 2.3 The site is within Affordable Housing Submarket Area 2 as defined by CS4.
- 2.4 The site is within the Green 2.5km+ Indicative Habitat Impact Zone.
- 2.5 TPO No.2 of 2014 covers a group of 4 trees and a single tree at the Nuffield Crescent entrance to the internal parking courtyard.

## **3. Relevant Planning History**

06/14/0773/F. Construction of 46 no. dwellings with associated parking and site works on site of former residential care home. APPROVED 08-08-16.

Planning permission was granted subject to a Section 106 Agreement dated the 8<sup>th</sup> August 2016. The Main terms included Library Contributions, Recreation and Open Space, Green Infrastructure, Affordable Housing and Road Provisions. All contributions have been made and the only remaining obligations are to maintain the road and drainage as private concerns.

## **4. Consultation responses**

- 4.1 Local Highway Authority (Norfolk County Council)

**No objection.**

- 4.1.1 The Highways Officer noted concern about the changed landscaping scheme and noted that they would prefer the trees to be planted as agreed.

4.2 Arboricultural Officer

**No objection.**

**5. Publicity & Representations**

5.1 Consultations undertaken: As a major development the application was advertised by Site notices and Press advert. The latest consultation period expired after 21 days on 29-09-23.

5.2 Ward Members – Cllrs Green, Pilkington and Wainwright

No representations have been received.

5.3 Public Representations

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

**6. Relevant Planning Policies**

The Great Yarmouth Core Strategy (adopted 2015)

Policy CS9: Encouraging well-designed, distinctive places.

Policy CS11: Enhancing the natural environment.

The Great Yarmouth Local Plan Part 2 (adopted 2021)

Policy I3: Foul Drainage.

Policy E4: Trees and landscape

Policy A2: Housing Design Principles.

**7. Other Material Planning Considerations**

National Planning Policy Framework (Dec 2023)

The policies in the Framework are material considerations which should be taken into account in dealing with applications.

- Section 4. Decision-making
- Section 12. Achieving well-designed and beautiful places
- Section 14. Meeting the challenge of climate change, flooding and coastal change

**8. Planning Analysis**

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.

- 8.1 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.*
- 8.2 This is reiterated at paragraphs 11, 12 and 47 of the National Planning Policy Framework.

### Main Issues

The main planning issues for consideration include:

- Principle of Development
- Drainage
- Trees and Landscaping
- Impact on Designated Habitat Sites

## **9. Assessment:**

### Principle of Development

- 9.1 The principle of development has already been accepted by permission 06/14/0773/F. This application is seeking alterations for the surface water drainage scheme, and it is not necessary to revisit the principle of development.

### Surface Water Drainage

- 9.2 The approved drainage scheme for planning permission 06/14/0773/F included a soakaway located under the now-tarmacked roadway which serves the shared parking area, as shown in approved drawing 6014-C-101-1 Rev. P1. The development was not carried out in accordance with this approved drainage scheme.
- 9.3 The application therefore seeks to regularise the installation of the soakaway within the central grassed island of the parking court. Aerial photographs would indicate that this was installed prior to 2018.
- 9.4 Policy CS11 expects that new development utilises sustainable drainage systems. Policy I3 states in part that “that no surface water connections should be made to the foul system and connections to the combined or surface water system should only be made in limited circumstances where there are no feasible alternatives”.
- 9.5 This is consistent with the drainage hierarchy outlined in Planning Practice Guidance which expects that surface water must be discharged as high up the following hierarchy as possible:
- Rainwater re-use (rainwater harvesting/greywater recycling)
  - An adequate soakaway or other infiltration system
  - Hybrid solution of infiltration and discharging to a surface water body
  - To a surface water body (e.g. an ordinary watercourse)
  - To a surface water sewer, highway drain, or other drainage system
  - To a combined sewer

- 9.6 Infiltrating surface water to a soakaway therefore remains a suitable solution to dealing with surface water. As indicated on the plans, the soakaways are similar sizes. Whilst a small part of the site is indicated as being at risk of surface water flooding, there is no indication that the change in position of the soakaway will affect its performance.
- 9.7 The relocation makes practical sense because it avoids the tarmacked courtyard being broken up at times when the soakaway needs maintenance including de-silting. To locate it in the central grassed space will cause occasional disruption but is suitable, providing it takes account of the required tree planting and includes suitable protection.
- 9.8 It is therefore considered that the amended location of the soakaway is acceptable and complies with Core Strategy Policy CS11 and Local Plan Part 2 Policy I3.

#### Trees and Landscaping

- 9.9 The approved landscaping scheme (drawing 2074-15 Rev.4) shows the planting of 2 trees within the central island (*Amelanchier Lamarkii* Snowy Mespilus) along with shrub planting. Street trees were also proposed, and therefore required, to be planted along Magdalen Square, Hertford Way and Nuffield Crescent.
- 9.10 Street trees are important design features and are expected under policies A2 and E4 and the NPPF is clear at paragraph 136 about the importance of trees in new developments. To have proposed a scheme without this planting would be unsuitable and contrary to both local plan policies and the NPPF which states that schemes which are amended at the expense of good design should be refused.
- 9.11 The applicant has not provided any evidence to justify why the planting has not been undertaken. The applicant has now agreed to plant the trees in accordance with the landscaping scheme approved by the original planning permission. It should be noted that condition 9 of permission 06/14/0773/F require that the planting should have taken place prior to completion of 80% of the dwellings. Given that this has not happened, the development is in breach of the planning condition and is not immune from enforcement of that condition. Formal planning enforcement action is being held in abeyance whilst this application is determined.
- 9.12 It is recommended that any permission granted to amend the soakaway drainage solution also amends the existing Condition 9 to ensure that planting of the remaining trees takes place in the current planting season (i.e. no later than by the 31<sup>st</sup> March), and that these trees are replaced if they fail or die within 3 years of being planted. The applicant has suggested the planting will be completed in February which would be comforting as it would improve the chance of successful establishment.
- 9.13 If a new permission granted is made subject to this amended condition, the landscaping scheme approved in 2016 is considered to remain acceptable, and it would continue to comply with policies CS11, A2 and E4.
- 9.14 However, the two trees required in the centre of the site where the soakaway is now located would need to be installed with suitable root containment / direction measures to protect the soakaway from the roots, and to ensure any replacement or repair of the soakaway can be undertaken without harm to the trees. To some extent the same applies to the trees required in the highway verge, but the importance of securing appropriate measures for trees adjoining the soakaway is greater given the tree roots will search out the water in the soakaway. No



details have been provided to date; further clarification will be provided in advance of the Committee meeting.

- 9.15 Permission should not be granted for soakaway relocation without both the trees on the street frontages and in the interior of the development being required, and with suitable protections, because the development would not provide suitable design or public amenity and would be contrary to adopted policies and the recently-adopted Borough-wide Design Code.

#### Impact on designated Ecological Sites

- 9.16 The application is an application made under Section 73a of the Town and Country Planning Act, to vary a planning permission for 46 dwellings where the development has already been commenced. Given the quantum of development, and the location of the site within the Green 2.5km+ Indicative Habitat Impact Zone, usually a bespoke Habitats Regulation Assessment (HRA) and a GIRAMS contribution of £ 9,698.64 (£210.84 x 46) would be expected to overcome the cumulative recreational impacts on designated sites within the Borough.
- 9.17 The original application was determined in 2016. The Conservation of Habitats and Species Regulations 2017 came into force, and prior to the Council adopting its Habitats Mitigation and Management Strategy (a precursor to the county-wide GIRAMS mitigation scheme) to address the legal requirement to prevent a likely detrimental impact on designated ecological sites. As such there was no need for the 2016 application to include a Habitats Regulations Assessment or provide mitigation at the time. The legal test for introducing the requirement to provide mitigation now, would be to consider if this Section 73a application is the permission or plan that creates a new impact on protected sites. Given that the site has been occupied in its entirety, it is not considered that any new permission granted would enable a new impact, and therefore, it is not considered reasonable to seek a new HRA or mitigation associated with this application.
- 9.18 As the development is 100% occupied and this Section 73 application does not result in a net increase in dwellings or a net change in recreational pressure on designated sites (as it relates only to the change of position of the soakaway), in this instance, it is not necessary to secure a HRA or GIRAMS contribution.

#### Local Finance Considerations

- 9.18 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.

### **10. Conclusion and Recommendation**

- 10.1 The soakaway position as installed is considered acceptable and continues to accord with the drainage hierarchy as outlined in Planning Practice Guidance, without apparent detriment to the remainder of the development other than the possible successful introduction of trees

within the central landscaped space. Case law has established that applications made under section 73 can be determined with amended conditions where they are directly relevant to the matters proposed under the variation. Amended conditions are therefore required to ensure that the outstanding tree planting is carried out with suitable tree establishment, growing mediums and protection measures in place.

10.2 Furthermore, the applicant has agreed there is no evidence that tree planting in the landscaped spaces and in the highway frontages would not be possible. The applicant has agreed to a planting timescale of before March 31st, in order to avoid the need for formal planning enforcement action as a breach of planning condition, which requires an amendment to the previous Condition 9.

10.3 Other conditions will need to be revised to ensure that they remain in place as compliance conditions as per the table below:

Condition on 06/14/0773/F	Condition Requirement	Proposed Modification	Proposed condition
1	Time Limit to commence	No need to reimpose – development has been commenced	n/a
2	Approved Plans	Reword to include revised drainage plan and to provide further clarity.	1
3	Boundary railings shall not overhang highway	Reword to retain railings.	5
4	Car Parking / Access to be provided and retained	Reword to retain car parking / access for that specific use.	6
5	Materials in accordance with approved details	Reword to retain in accordance with materials schedule.	7
6	Off-site highway improvement works to be carried out	Removed - No need to reimpose as works have been carried out.	n/a
7	Bin storage to be provided and retained	Reword to retain bin store areas.	8
8	Boundary treatments to be provided and retained	Reword to retain the boundary treatments which have been installed in accordance with plans.	9
9	Landscaping to be provided prior to 80% of dwellings being completed. Any trees which dies in 3 years are to be replaced in the next planting season.	Impose with revised wording to ensure that planting is provided to the agreed specification within 28 days.	2
		Add a new separate condition that requires planting to be undertaken in accordance with specific details for trees planted in the vicinity of the soakaway, including use of root barriers.	3
		Add new separate condition to ensure that replacements are	4

		provided if there are any which die or are removed or damaged.	
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- 10.3 Having considered the details provided, and those additional details which are considered reasonable and necessary and expected to be provided prior to the Committee meeting, it is considered the application is able to comply with policies CS9, CS11, A2, E4 and I3.
- 10.4 The Section 106 Agreement which forms part of the parent planning permission Ref 06/14/0773/F contains a clause allowing changes under S.73 of the Act to proceed without the need to specifically amend the s106 Agreement. As such, this application requires no changes to the existing Section 106 Agreement, but any new permission granted will continue to be bound by the terms of the Section 106 Agreement dated 8<sup>th</sup> August 2016.
- 10.5 It is considered that there are no other material considerations to suggest the application should not be recommended for approval.

## 11. RECOMMENDATION

- 11.1 It is recommended that application 06/23/0393/VCF should be APPROVED, subject to the proposed conditions listed below:

### PROPOSED CONDITIONS

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

1. The development shall be retained in accordance with the following revised plan received by the Local Planning Authority on the 6<sup>th</sup> February 2024:

- Soakaway Location. GC/419/01 Rev.A
- Planting Specification

And the development shall be undertaken in strict accordance with the following plans approved by the Local Planning Authority as part of Planning Permission 06/14/0773/F:

- Site Layout Plan GC/161/01 Rev.A
- Street Scenes GC/161/02
- Roof Plan GC/161/03
- Floor Plans, Plots 1-22 GC/161/04
- Elevations, Plots 1-22 Sheet 1 GC/161/05
- Elevations, Plots 1-22 Sheet 2 GC/161/06
- Elevations and Floor Plans – Plots 23-29 GC/161/07
- Elevations and Floor Plans – Plots 30-35 GC/161/08
- Elevations and Floor Plans – Plots 36-40 GC/161/09
- Elevations and Floor Plans – Plots 41-46 GC/161/10
- Elevations and Floor Plans, sheds serving flats. GC/161/11
- Soft Landscaping – Planting 2074-15 Rev.4
- Site Layout – External Works 6014-C-100-1 P7
- External Works and Highway Drainage Details 6014-C-101-1 P2
- External Works and Highway Drainage Details 6014-C-101-2 P2
- Drainage Details – Sheet 1 6014-C-103-1 P1
- Drainage Details – Sheet 3 6014-C-103-3 P1

Reason: For the avoidance of doubt.

Landscaping/Planting to be carried out

2. No later than 31<sup>st</sup> March 2024, the planting indicated on the approved landscaping scheme drawing 2074-15 Rev.4 shall be carried out in its entirety (9no. trees in total). Save for the two *Amelanchier Lamarkii* trees to be provided in the central grassed area of the site, all trees shall be planted in strict accordance with the Planting Specification Document submitted to the Local Planning Authority on the 6<sup>th</sup> February 2024.

All trees shall thereafter be maintained in strict accordance with the maintenance details provided within the Planting Specification Document received on the 6<sup>th</sup> February 2024.

Reason:

To create visually attractive street scenes and to provide biodiversity benefits, in accordance with Core Strategy (2015) Policy CS11 and Local Plan Part 2 (2021) Policies A2 and E4.

Planting specifications for trees in the vicinity of the soakaway

3. *NOTE TO COMMITTEE – This condition is expected to be updated prior to the Committee meeting, concerning the clarified details of root containment and tree planting details.*

No later than 31<sup>st</sup> March 2024, the two *Amelanchier Lamarkii* trees to be provided in the central grassed area of the site shall be planted in accordance with *[specific details for trees to be successfully planted in the vicinity of the soakaway, including use of root barriers]*.

All trees shall thereafter be maintained in strict accordance with the maintenance details provided within the Planting Specification Document received on the 6<sup>th</sup> February 2024.

Reason:

As the trees within the central grassed area are necessary ensure a high quality form of development and in the interests of ensuring appropriate visual amenity for the local area, to enhance biodiversity and to secure appropriate residential amenity in accordance and the root barrier measures are required to ensure that the planting does not adversely affect surface water drainage; in accordance with Policies CS9 and CS11 of the adopted Great Yarmouth Local Plan Core Strategy (2015).

Trees to be replaced if they die within 3 years of this consent

4. For the duration of a period of 3 years from this consent, any trees, shrubs or hedges planted in accordance with the landscaping scheme which die, are removed or become seriously damaged or diseased shall be replaced in the next immediate planting season with others of similar size and species.

The reason for the condition is :-

To ensure a high quality form of development and in the interests of ensuring appropriate visual amenity for the local area, to enhance biodiversity and to secure appropriate residential amenity in accordance with Policies CS9 and CS11 of the adopted Great Yarmouth Local Plan Core Strategy (2015).

No part of boundary railings to overhanging highway

5. No part of the installed boundary railings shall overhang or encroach upon highway land and no gate if installed shall open outwards over the highway.

Reason: in the interests of highway safety in accordance with Core Strategy (2015) Policy CS16.

Access / car parking area to be retained for that specific use

6. The access / car parking area, as shown on plan GC/161/01 Rev.A shall be retained thereafter for that specific use.

Reason: To ensure the permanent availability of the parking / manoeuvring area, in the interests of highway safety in accordance with Core Strategy (2015) Policy CS16.

Materials

7. The materials used in the development shall be in accordance with the approved materials schedule within planning permission 06/14/0773/F.

Reason: In the interest of the visual appearance of the development, in accordance with Core Strategy (2015) Policies CS1 and CS9.

Bin Storage Areas

8. The bin storage areas shown on drawings GC/161/01/A and GC/161/11 along with the bins, shall be provided and retained and shall at all times be available for bin storage thereafter.

Reason: To ensure satisfactory on site bin storage provision, in accordance with Core Strategy (2015) Policy CS9.

Boundary Treatments

9. The boundary treatments shown on drawing GC/161/01/A and GC/161/02 shall be provided and thereafter retained in accordance with the details provided on the approved plans.

Reason: To ensure that the development is carried out in the manner envisaged by the Local Authority, in accordance with Core Strategy (2015) Policies CS1 and CS9.

PROPOSED INFORMATIVE NOTES

NOTES - Please read the following notes carefully:-

1. It is an OFFENCE to carry out any works within the Public Highway, which includes a Public Right of Way, without the permission of the Highway Authority. This development involves work to the public highway that can only be undertaken within the scope of a Legal Agreement between the Applicant and the County Council. Please note that it is the Applicants' responsibility to ensure that, in addition to planning permission, any necessary Agreements under the Highways Act 1980 are also obtained and typically this can take between 3 and 4 months. Advice on this matter can be obtained from the County Council's Highways Development Management Group based at County Hall in Norwich.
2. Public Utility apparatus may be affected by this proposal. Contact the appropriate utility service to reach agreement on any necessary alterations, which have to be carried out at the expense of the developer.
3. If required, street furniture will need to be repositioned at the Applicants own expense.
4. This proposal involves excavations adjacent to the public highway. It is an OFFENCE to carry out any works that may affect the Public Highway, which includes a Public Right of Way, without the permission of the Highway Authority. Please note that it is the Applicant' responsibility to ensure that, in addition to planning permission, any necessary consents or approvals under the Highways Act 1980 and the New Roads and Street Works Act 1991 are also obtained from the County Council.
5. This application is the subject of a legal agreement under Section 106 of the Town and Country Planning Act 1990 dated 8<sup>th</sup> August 2016 (originally associated with pp 06/14/0773/F) and includes a Management Agreement for the site, including the roads and drainage features.

**Appendices:**

Site Location Plan

## APPENDIX 1: Site Location Plan





# Development Management Committee Report

Committee Date: **21 February 2024**



Application Number	06/23/0831/CU – Click <a href="#">here</a> to see application webpage
Site Location	Club House, Florida Estate, Back Market Lane, Hemsby, NR29 4NN
Proposal	Proposed change of use and subdivision of existing storage unit (Use Class B8) to provide 2no. commercial premises for retail and hair salon (Use Class E)
Applicant	Ms S White
Case officer	Nicole Jarmey
Parish & Ward	Hemsby
Date Valid	12 December 2023
Expiry / EoT Date	01 March 2024
Reason at committee	A connected application: Submitted by an Employee of the Borough Council
Procedural notes	This application was reported to the Monitoring Officer as an application for determination by the Borough Council as Local Planning Authority. The application was referred to the Monitoring Officer for their observations on 09/02/24, 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: APPROVE SUBJECT TO CONDITIONS

### 1. The Site

- 1.1 The application site is located within the Florida Estate in Hemsby, at the south-easternmost perimeter of the Florida holiday park, adjacent the Bermuda Holiday Park immediately to the south and the Seadell Holiday Estate immediately to the east. The area consists of single storey holiday chalets within all three holiday parks which surround the application site.
- 1.2 The application site is a single storey unit to the rear of The Florida Entertainment Centre – known as Bensley's bar. The application site is attached to the north of Bensley's Bar.
- 1.3 The unit is currently being used as a storage unit for the holiday park site.



- 1.4 There is a car park directly to the north of the application site which can accommodate 30 vehicles to access this part of the site. There are also footpaths within this site, and to the adjoining holiday park site (Seadell Holiday Estate) to the east which lead to the application unit.

## **2. The Proposal**

- 2.1 This is an application for the change of use of the existing storage unit into two units, one as a shop selling convenience goods for users of the site with an adjacent storage area, and one to the north of the shop which is proposed to be used as a salon with adjoining storage room.

## **3. Site Constraints**

- 3.1 The site is within the defined Holiday Accommodation Area – established by policy L1.
- 3.2 The site is outside the village Development Limits.

## **4. Relevant Planning History**

- 4.1 None relevant

## **5. Consultation responses**

### 5.1 Local Highways Authority

#### **No objection.**

- 5.1.1 Summary of response: Initially asked for further information regarding the number of staff to be employed by the salon, whether this would be on an appointment basis and whether the retail unit would be just for the holiday park users or the wider community.
- 5.1.2 Information was received by the applicant on 25<sup>th</sup> January 2024 in response to the queries raised. On the basis that the salon would have 4 staff, with a maximum of 6 clients at any time, and would be appointment only, and that the shop was for users of the holiday park only, no objections were raised.

### 5.2 Great Yarmouth Borough Council Environmental Services

#### **No objection**

- 5.2.1 Summary of response: Requested an Informative to be added to any planning permission regarding checking for asbestos and then managing or removing in line in accordance with the Control of Asbestos Regulations 2012 and Waste Management Regulations. A further informative regarding trade waste and the requirements to dispose as stated in the Environmental Protection Act 1990, Section 34.

### 5.3 GYBC Strategic Planning

#### **No objection following receipt of additional information**

- 5.3.1 Summary of response: Initially requested further information regarding what the proposed shop would sell and how the proposed uses would serve the holiday site.

- 5.3.2 Further information was received by the applicant and further comments were received to advise that with measures would need to be put in place to ensure the development could be ancillary to the holiday park in order to address Part (M) of Policy L1 and be considered acceptable in principle.

## **6. Publicity & Representations received**

- 6.1 Consultations undertaken: Public consultation site notices were displayed on the site for a period of 21 days.

### **6.2 Ward Member – Cllr(s) Bensley and Galer**

- 6.2.1 No Ward Councillor comments have been received.

### **6.3 Parish Council – Hemsby**

- 6.3.1 Hemsby Parish Council have been consulted but due to the next Parish Council meeting being conducted on Monday 19<sup>th</sup> February 2024 their comments will be submitted in an update report to the committee prior to the meeting.

### **6.4 Public Representations**

- 6.4.1 No public comments have been received.

## **7 Relevant Planning Policies**

### **The Great Yarmouth Core Strategy (adopted 2015)**

- Policy CS06: Supporting the local economy
- Policy CS07: Strengthening our centres
- Policy CS08: Promoting Tourism, leisure and culture
- Policy CS9: Encouraging well-designed, distinctive places
- Policy CS08: Promoting tourism, leisure and culture

### **The Great Yarmouth Local Plan Part 2 (adopted 2021)**

- Policy A1: Amenity
- Policy R1: Location of retail development
- Policy L1: Holiday Accommodation Areas

### **Hemsby Neighbourhood Plan (Adopted July 2023)**

- Policy 10: Loss of tourism Facilities

## 8 Other Material Planning Considerations

### National Planning Policy Framework (Dec 2023)

The policies in the Framework are material considerations which should be taken into account in dealing with applications:

Section 2: Achieving sustainable development

Section 4: Decision Making

Section 7: Ensuring the Vitality of town centres

Section 12: Achieving well designed places

## 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
- Impact on Tourism Leisure and Culture
- Economic Impact
- Design and Character
- Amenity
- Highways and Car parking

## 10. Assessment

- 10.1 This application is for the creation of a shop that through planning conditions can be restricted to only be used by occupants / holiday makers at the holiday park site. There is proposed to also be a salon created that will provide services to users of the site, as well as having clients from outside of the site to ensure the salon is viable year-round.

### Principle of Development – Development within the Holiday Accommodation Area

- 10.2 The site is situated within the Holiday Accommodation Area defined by policy L1 which aims to support proposals which upgrade or enhance existing or replacement visitor accommodation and ancillary tourist facilities. This goes on further to state that to achieve these goals, small-scale retail units which are appropriate to serving the needs of the holiday accommodation will be generally encouraged. The proposed shop is in accordance with this as it will provide convenience goods for users of the holiday site, however, the proposed salon does not meet any of the requirements set out in LPP2 policy L1.
- 10.3 Policy CS08 encourages maximising the potential of existing coastal holiday centres by ensuring that there are adequate facilities for residents and visitors, and enhancing the public realm, where possible.
- 10.4 Both the shop and the salon help improve the tourism attraction at the holiday park, in accordance with policy CS08. The shop element of the proposal is considered acceptable as a tourism site enhancement in accordance with policy L1, but there is a minor conflict with policy L1 arising from the salon. The implications of this are discussed further below.
- 10.5 In addition to Local Plan policy, Hemsby Neighbourhood Plan Policy 10: Loss of Tourism Facilities also seeks to protect existing tourism sites. The policy states that:
- “...Proposals leading to the loss of an existing tourism facility to a non-tourism use will only be permitted where it is demonstrated that:*
- a. It is to be replaced by a tourism facility of equal or greater quality in a suitable location; or*
- b. The area currently served by the tourism facility would remain suitably provided for following the loss;...”*
- 10.6 Although the storage unit is being removed, the retail and salon operations would not normally be considered tourism facilities, but they can be operated in such a manner to complement the tourism site, as is discussed below. The holiday park has considered the storage facility to be surplus to requirements so the loss of the facility is not considered detrimental to the holiday park operations. The proposal therefore accords with Policy 10.

### Principle of Development – Location of retail and commercial uses

- 10.7 The proposal will create retail / commercial units outside of the Hemsby Local Centre. Policy R1 set out the criteria for assessing applications which are outside of defined retail or town centres, and the approach taken is consistent with the NPPF.
- 10.8 Paragraph 91 of the NPPF (National Planning Policy Framework) sets out the requirement to apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to date plan. This goes on to say that Main

Town Centre uses should be located in town centres, then edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered. The NPPF defines main Town Centre Uses and a Salon falls within the uses defined. Therefore, a sequential test should be applied.

- 10.9 In line with policy R1, Officers consider the sequential test should be applied in a manner proportionate to the circumstances of this proposed operation. For development of this type and scale the Hemsby Local Centre should be looked at first as the preferred location for this to be sited, however, at the current time there are no units available within the Local Centre, or on the edge of the local centre, nor are there any that could become available in a reasonable timescale to accommodate the proposal. Because of this it should then be looked at whether other local centres within a reasonable distance would be able to accommodate both the proposed shop and salon. However, both are proposed to serve the needs of the holiday park guests, and in respect of the salon, proposes to provide facilities such as hair braiding for users of the holiday site, and a minor proportion of the use to serve the wider community. Therefore, on balance, it has been considered that the requirement to look at other local centres beyond Hemsby would be unreasonable.
- 10.10 Policy R1 sets out 6 criteria for proposals to satisfy where they are proposing Main Town Centre Uses outside of both defined centres and development limits. Those criteria are:
- a. the location is accessible by public transport and is accessible to pedestrians and cyclists;*
  - b. the site has good links to the designated centre, or links can be improved;*
  - c. the proposed use either individually or cumulatively does not undermine the attractiveness or viability of the designated centres;*
  - d. the site will not impact upon other neighbouring uses, in terms of traffic, parking and amenity issues;*
  - e. an additional need for retail development has been demonstrated to justify the development; and*
  - f. there is no suitable and available land within the Development Limits."*
- 10.11 Policy R1 is clear in stating that: *"development on out of centre sites which are also outside of Development Limits will only be permitted where [the above 6 criteria are all satisfied]"*. If, on appraising the application against these criteria, these are not all satisfied, the application would be contrary to policy R1.
- 10.12 In terms of criteria (a), the development is accessible via public transport with Bus stops located outside the holiday park, one on Back Market Lane, one on Newport Road, and stops along Beach Road. There are also footpaths within the site that can be used by pedestrians and cyclists and these footpaths link up with footpaths and roads outside of the site.
- 10.13 In terms of criteria (b), the designated local centre can be accessed from the development site via Beach Road which has roads with footpaths, or via Newport Road and Kingsway which have roads with footpaths and crossings. There are also bus stops on Newport Road and within the Local Centre which can be used, and this means the application meets criteria (b).
- 10.14 In terms of criteria (c), the development does not individually or cumulatively undermine the attractiveness of or viability of the designated centre as the proposed development is of a small scale, even with both units, that it is not likely to present an impact on the established Hemsby Local Centre. This is furthered by the location of the units within the centre of the

holiday site which makes it less viable and less obvious to non-users of the site as a preferred location to meet their retailing needs.

- 10.15 In terms of criteria (d), the development will not impact upon other neighbouring uses, in terms of traffic and parking due to there being footpath within the site for visitors using the holiday site, and roads within the site leading to the development and the carpark to the north and bus stops located outside the holiday park. In terms of amenity, the proposed use will create some increase of noise and smells such as hair dryers and hair colours, however this will be during the day and only covering a small area directly adjacent the units, and will not have a wider impact on the site. This will be while the salon is open, and will be less than that of the adjoining club house which will create a higher volume of noise which will last longer into the night. There are no proposed external works so this is not likely to give rise to other amenity concerns.
- 10.16 In terms of criteria (e), an additional need for retail has not been demonstrated with Local Plan Part 2 Policy UCS7 amending Policy CS7 as it was identified that there was no need any new retail (food or non-food) floorspace to be allocated over the short (to 2025) and medium (to 2030) term. Therefore, criteria (e) is not satisfied.
- 10.17 In terms of criteria (f), the criteria for assessment against part (f) is a test of whether there is any other suitable land or sites inside the Development Limits. Although there are no other suitable sites available in the defined Hemsby Local Centre or edge of centre, it is considered likely that there would be a suitable site(s) / locations within the development limits as a whole which could accommodate the proposed development, and therefore be slightly more 'accessible' than the proposed application site (even though being out of centre). Therefore, criteria (f) is not satisfied.
- 10.18 Given that the application is unable to satisfy all the criteria above, the development is considered contrary to policy R1 and therefore also CS7 because it is unable to improve the vitality and viability of the local centres, town or district centres.
- 10.19 However, it is necessary to consider what the associated level of harm would arise from the conflict with policy, and therefore also consider whether there are any measures available which could be introduced to minimise the harms apparent. As such the proposal should be assessed as to whether the circumstances and specifics of the application and any planning controls can be used to minimise the impact of the development and reduce the harm from being contrary to policy and/or the NPPF.
- 10.20 In mitigation, it is considered that the scale of the retail operation will not create a detrimental impact if any permission to be granted can control its operations. The proposed shop is of a small scale with a floor area of 27m<sup>2</sup> and a storage room of 17m<sup>2</sup>. This shop can be controlled through Planning conditions to ensure that the sale of goods is restricted to be:
- used only for the sale of day-to-day convenience goods, and
  - other than those for tourism use, no comparison goods should be sold, and
  - where reasonably possible the shops sales shall be restricted to users of the holiday site, and
  - the shop shall only open when the holiday site is open.

- 10.21 These measures will ensure the use can remain ancillary to the holiday park site and minimise its attraction for journeys to be made from outside the holiday park, and minimise its possible impact on trade draw from the defined centres, and therefore help make the development acceptable.
- 10.22 The salon is slightly different in that it proposes to both serve the site, offering hair styling to users of the holiday site such as hair braiding, and also have clientele from outside of the holiday site to enable it to be open year-round.
- 10.23 It is considered that the floorspace available, number of chairs available for customers, and the overall scale of operations will minimise the impact from being a commercial use outside of the local centre. The applicant has agreed with the Officer's recommendations that the salon operate on an appointment-only basis and a restricted number of customers, which ensures the impact is minimised. Furthermore, it is considered that a salon use can also provide a valued service to local residents in the community year-round. The proposed Salon location is close to numerous holiday park sites and has footpaths from those sites leading to the salon as well as a large carpark to the north which can accommodate parking necessary for visitors from outside of the site. Due to this, the site is considered accessible to the community and holiday makers, and in this case the proposed development is able to be considered acceptable despite the conflict with policy R1.

#### Tourism Leisure and Culture

- 10.24 The proposed development of both of the retail units will be located within The Holiday Site and be open when the site is open to provide convenience goods to users of the site. This will increase the facilities provided on site and increase the attractiveness of the site to tourists looking at places to visit, boosting tourism in line with Local Plan Core Strategy Policy CS08.

#### Economic Impact

- 10.25 The shop is proposed to serve the Holiday site and will be controlled to ensure it will only be open 9am-5pm Monday-Saturday and 10-4 on Sundays while the holiday site is open. This will create employment opportunities for at least 1 full time staff on a full time-basis and at least one part time staff of around 20 hours a week.
- 10.26 The Salon will serve both the site as well as the general public which the applicant states is necessary to enable it to be open year-round. The salon is proposed to be open Tuesday-Saturday 9am-6pm with the occasional appointments on a Monday or Sunday. The salon will create employment for four full-time employees or the equivalent.
- 10.27 Given that the existing building is in use only as a storage facility for the holiday park site, it is considered that the jobs created will be of benefit to the area and will overcome the loss of holiday park storage space which otherwise creates no direct employment opportunities.

#### Design and impact on the character of the area

- 10.28 The existing unit is being used for storage. It is proposed for the unit to be subdivided to create a shop, a salon and storage rooms for these. Even though there are no proposed works to the external of the unit, once the shop and salon open, the unit will be in use during the day, and likely to be regularly maintained which will improve the appearance of the unit and ensure the character of the area is maintained.

#### Residential Amenity

- 10.29 The proposed shop and salon are located centrally within the holiday site. The uses proposed may give rise to concerns regarding noise, however, this will be during the daytime and will be at a lower level than the noise expected from the attached clubhouse which will generate noise at a higher level and later at night.
- 10.30 There are no proposed external works to the unit, so no impacts are likely to affect neighbouring uses.

#### Access, Traffic and Highways impacts

- 10.31 The shop is to primarily serve the holiday site and due to this, most movements to and from the shop are likely to be done by walking or cycling from within the site.
- 10.32 The Hair Salon will serve both the holiday site and residents. Most visitors from the site are likely to access the salon by walking from within the site. Due to the location of the salon within the site, residents of Hemsby are likely to access the salon using cars or walking. There are also bus stops Located on Newport Road and Back Market Lane so users from further away are able to use public transport to access the salon.
- 10.33 There will be an increase of vehicles to and from the site with visitors to the shop and more especially to the proposed salon. The NPPF Paragraphs 108 and 109 requires the impacts of development on transport networks to be addressed and encourages developments to promote sustainable transport such as walking a cycling and to reduce highways impacts.
- 10.34 Highways impacts can be minimised by ensuring the salon will be conditioned to run by appointments only with a maximum of 4 staff and 6 clients at any time. Users accessing the salon from outside of the site will be able to do so either by walking or cycling from the village or via car from Back Market Lane which has a road leading directly to the carpark to the north of the unit.
- 10.35 The Local Highways Authority have raised no objections due to the scale and on the basis that Planning conditions will control the use of the development to ensure no highways concerns are created, and it is considered necessary and reasonable to include such conditions.

#### Parking & Cycling Provision

- 10.36 Norfolk County Council Parking Standards requires 1 parking space per 20m<sup>2</sup> gross floor area. The units as proposed is 75m<sup>2</sup> and therefore requires 4 parking spaces. There is a carpark to the north of the unit which can accommodate parking for over four cars and therefore meets the parking requirements.

#### Flood Risk

- 10.37 The Unit is located within Flood Risk Zone 1 and of a scale too small to be affected by requirements to address flood risk.

#### Drainage

- 10.38 It is proposed for the foul sewerage to be connected to the main sewer and for surface water to be to be disposed of via a sustainable drainage system as exiting. There are no objections to this.



#### Other Material Considerations

- 10.39 There are no other material considerations presented that suggest that the application should not be decided in line with local planning policy.

#### Local Finance Considerations

- 10.40 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 proposed development will be of economic benefit, creating employment for 5.5 full time equivalent staff over the two uses. This will also increase the facilities available on site and promote tourism within Hemsby. There are good transport links to the site with bus stops on adjoining roads, footpaths within the holiday site and there is adequate car parking available on site which will prevent disruptions to the highway.
- 11.2 The proposal will create retail units outside of the defined Hemsby Local Centre. This is contrary to policy R1 and will have a potential impact on local centres contrary to policy CS7 unless there are mitigating circumstances or controls are imposed on any permission. However, the proposed units are of a modest scale and will be conditioned to ensure the units are complementary to the overall attractions and function of the holiday park, and able to serve visitors to the adjoining holiday parks.
- 11.3 On balance, it is considered that the facilities to be provided to tourists and jobs being created through this proposal will provide benefits which will outweigh the conflict with policy.

### **12. Conclusion**

- 12.1 Having considered the details provided, the application is considered to conflict with Local Plan Core Strategy Policies CS06, CS07 and Local Plan Part 2 Policy R1, and the salon is contrary to policy L1. However, the overall development is in accordance with Local Plan Core Strategy Policies CS08, CS09 and Local Plan Part 2 Policy A1. Although the salon may not be, the shop is in accordance with Local Plan Part 2 Policy L1. On balance this is considered to be acceptable as the benefits to be provided are considered to outweigh the minor areas of conflict with policy, and the application can be recommended for approval on this basis.
- 12.2 Other than the minor conflict with local plan policy, there are no other material considerations to suggest the application should not be recommended for approval given the mitigating circumstances.

### **13. Recommendation**

It is recommended that application 06/23/0831/CU should be APPROVED, subject to the proposed conditions listed below.

## Conditions

### Standard time limit – commence within 3 years

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

Reason: The time limit condition is imposed in order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

### Development to accord with approved plans and details

2. The development shall be carried out in accordance with the following plans received by the Local Planning Authority on 12th December 2023:
  - Unreferenced Plan, entitled Location Plan, dated 10th November 2023
  - Unreferenced and untiled plan (submitted as proposed floor plans), undated
  - Unreferenced and untitled plan (submitted as proposed salon layout plan), undated

Reason: For the avoidance of doubt.

### Restriction of use

3. Notwithstanding the provisions of Schedule 2 Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, the development hereby permitted shall only be used for the purposes of a shop and hair and beauty salon and for no other use whatsoever (including other purposes within Class E of the Town and Country Planning (Use Classes) (England) Order 1987 as amended) without first gaining the express written permission of the Local Planning Authority.

Reason: To ensure the proposed development provides the specific benefits and mitigations which justified the development despite its conflict with local plan policy, to avoid creating an impact on the vitality and viability of nearby local centres by allowing other main town centre uses to operate from the site, and to ensure that any other uses that might otherwise take place are subject to an application to consider and address possible impacts so as to avoid creating a negative impact on the Hemsby designated local centre and other tourism uses in the vicinity, in accordance with policies CS06, CS07 and CS08 of the Core Strategy, policies L1 and R1 of the Local Plan Part 2, and Policy 10 of the Hemsby Neighbourhood Plan.

4. The Shop aspect of the development shall be restricted to use only within the area shown in the approved plans and identified as no more than 27m<sup>2</sup> located in the south west section of the unit. The Salon aspect of the development shall be restricted to use only within the area shown in the approved plans and identified as no more than 48m<sup>2</sup> located to the north section of the unit.

Reason: To clarify the floorspace and locations of the proposed development, and to ensure that the proposed development retains a scale of floorspace that will avoid creating a negative impact on the Hemsby designated local centre in accordance with Policies CS06, CS07 and R1.

Salon use restricted to no more than 6 clients at any one time and by appointment only

5. The use of the premises as a salon in the manner hereby permitted shall be restricted to use by no more than 6 (six) customers at any one time. Customers using the salon shall attend, and the premises shall operate under, an appointment-only system.

Reason: To ensure that there are no negative impacts caused to users of the site and the surrounding neighbours, in terms of highway safety and amenity, and to ensure the use is restricted to that which is an acceptable level for the size, scale and location proposed within a holiday park site, and to ensure there are no negative impacts on the Hemsby designated local centre, in accordance with Core Strategy policies CS06, CS07, CS08, CS09 and CS16, Local Plan Part 2 policies R1 and A1, and Policy 10 of the Hemsby Neighbourhood Plan.

Hours of salon operation

6. The salon use within the development hereby permitted shall not be open for business outside of the following hours: -

09:00 – 18:00 Mondays to Saturdays, and,  
10:00 – 16:00 Sundays and Public or Bank Holidays

Reason: In the interests of protecting the amenities of holiday makers residing in the vicinity, in accordance with Core Strategy policies CS08 and CS09, and Local Plan Part 2 policy A1.

Shop opening only when the holiday park site is open

7. The shop use within the development hereby permitted shall only be open for business when the holiday site is open and shall close during the off-season.

Reason: To control the impacts of the development on defined local centres, because the development plan prohibits such retail development outside defined development limits and this retail element is considered appropriate only for the purposes of serving the essential basic needs of the holiday site, in accordance with policies CS06, CS07 and CS08 of the Core Strategy, policies L1 and R1 of the Local Plan Part 2, and Policy 10 of the Hemsby Neighbourhood Plan.

Hours of shop operation

8. The shop use within the development hereby permitted should not be open for business outside of the following hours: -

09:00 – 17:00 Mondays to Saturdays, and,  
10:00 – 16:00 Sundays and Public or Bank Holidays

Reason: in the interests of protecting the amenities of holiday makers residing in the vicinity, in accordance with Core Strategy policies CS08 and CS09, and Local Plan Part 2 policy A1.

Restriction of goods for sale in the shop

9. The retailing provision within the development permitted shall remain limited to the sale of day-to-day essential convenience goods only, and shall not include any comparison goods, other than tourism related goods, or white goods retailing. The operators of the development hereby permitted shall, wherever practicable, seek to ensure this retailing use serves only

holidaymakers staying within the holiday site.

Reason: To control the impacts of the development on defined local centres, because the development plan prohibits such retail development outside defined development limits and this retail element is considered appropriate only for the purposes of serving the essential basic needs of the holiday site and is not appropriate to perform anything other than an ancillary role, in accordance with policies CS06, CS07 and CS08 of the Core Strategy, policies L1 and R1 of the Local Plan Part 2, and Policy 10 of the Hemsby Neighbourhood Plan.

Floor space restriction for shop

10. No more than 28m<sup>2</sup> of floor space shall be used for the sales of retail goods from the development at any time.

Reason: To ensure the retailing provision within the development is limited to that proposed, to control the impacts of the development on defined local centres, and to help ensure this retail element serves the essential basic needs of the holiday site and maintains an ancillary role to the holiday park, in accordance with policies CS06, CS07 and CS08 of the Core Strategy, policies L1 and R1 of the Local Plan Part 2, and Policy 10 of the Hemsby Neighbourhood Plan.

**Proposed Informative Notes**

Informative Note: Trade Waste

1. 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.

Informative Note: Asbestos and contamination

2. The developer is reminded that prior to any refurbishment commencing on site the building/s to be refurbished are required to be surveyed for the presence of asbestos containing materials in accordance with the Control of Asbestos Regulations 2012. Any asbestos containing materials which are identified shall be managed or removed in accordance with the above regulations and waste regulations. Failure to comply with these regulations could result in prosecution by the relevant authority.

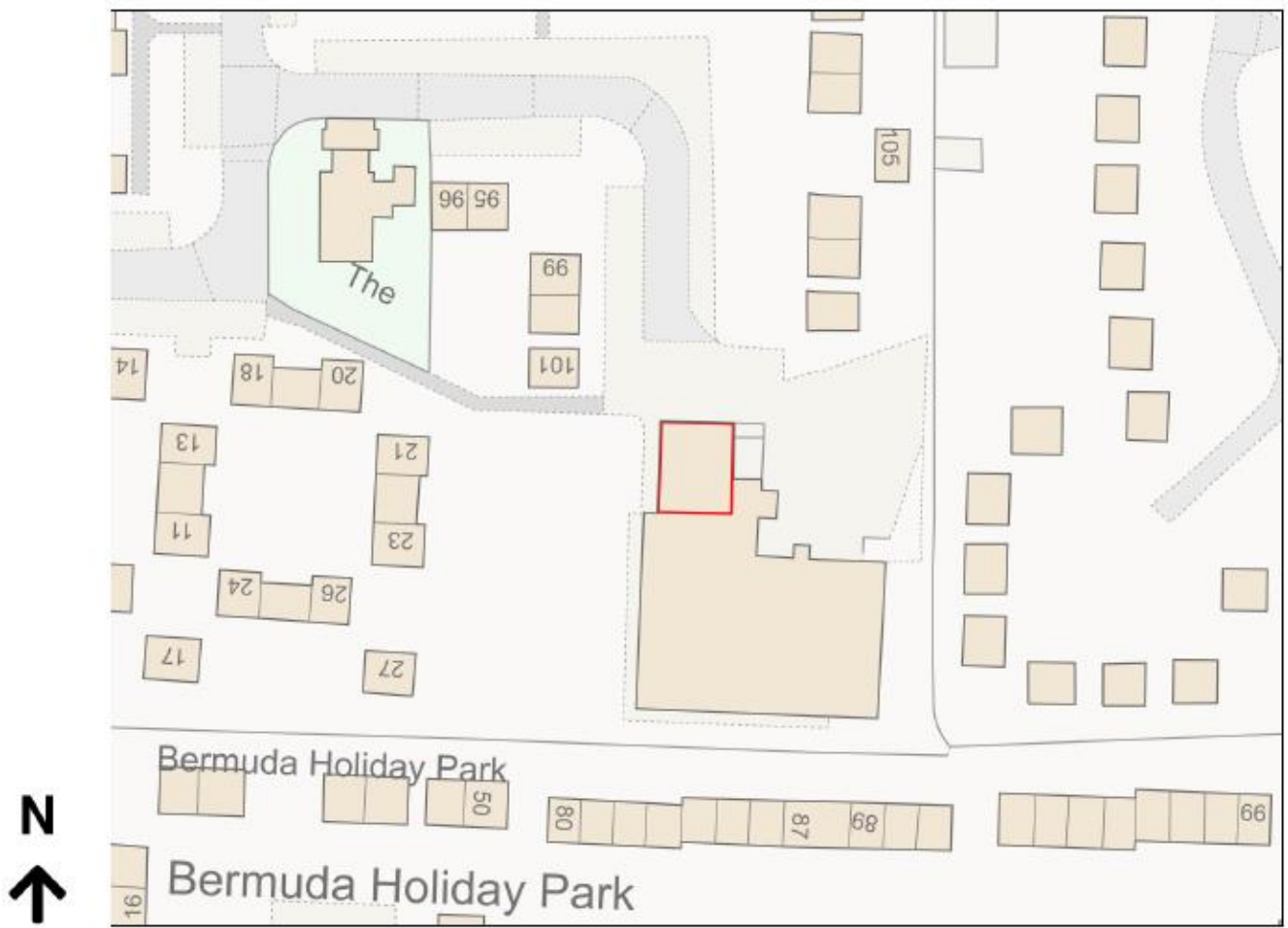
The uncontrolled refurbishment of buildings could result in the contamination of soils on site and in the vicinity of the demolition. This could cause the investigation of the site under Part 2A of the Environmental Protection Act 1990, which may result in the determining of the site as Contaminated Land.

For further help and advice in respect of asbestos removal the applicant/agent is advised to contact the Health and Safety Executive (HSE) on 0845 345 0055 ([www.hse.gov.uk/asbestos](http://www.hse.gov.uk/asbestos))

Statement of Positive Engagement

3. 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



# Development Management Committee Report

Committee Date: **21 February 2024**



Application Number	<b>06/23/0678/VCF</b> - Click <a href="#">here</a> to see the application webpage
Site Location	Former Pontins Holiday Centre, Beach Road, Hemsby, NR29 4HJ.
Site Location Plan	See Appendix 1
Proposal	Variation of Condition 6 of pp 06/20/0422/F (Development of 188 no. dwellings and 88 no. holiday lodges, new shop, leisure centre and cafe with associated highways works) - Amendment to approved plans to install solar panels and clarify position and design of porches on approved Accommodation Blocks B, Q1, Q2, R and T.
Applicant	Lodge Park Ltd
Case Officer	Myles Joyce
Parish & Ward	Ormesby St Michael Ward
Date Valid	31 October 2023
Expiry / EOT date	29 February 2024
Reason at committee	Constitution: The application is a major development of over 1ha and more than 25 dwellings.

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

### P1. Preliminary matters

- P1.1 Members are reminded that case law has ruled that an application to remove or vary conditions on a planning permission has the effect of creating a new planning permission altogether, and the determination of this proposal must have regard to the permission already granted and the intended variations, and any material considerations relevant to the development since the previous permission was granted.
- P1.2 This item was originally scheduled to be considered by the Committee on 24 January 2024 but was removed from the agenda prior to the meeting, to allow the Parish Council and Ward Councillor consultation period to complete. The necessary consultation periods expired on 08 February 2024. This report has been amended accordingly so should be considered a new stand-alone report to supersede that which featured on the 24 January agenda.

## **1. The Site/Background**

- 1.1 Application 06/20/0422/F was considered by the Development Control Committee on 17<sup>th</sup> February 2021 who resolved to grant planning permission subject to completion of the associated section 106 agreement. The decision notice was issued on 21<sup>st</sup> July 2021 for the mixed use scheme comprised of 188 no. dwellings and 88 no. holiday lodges to let following partial demolitions, new shop, leisure centre with a gym and spa, cafe and communal areas with associated highways works.
- 1.2 This proposal seeks to vary the permission through amending Condition 6 of the permission by amending the approved plans to install solar panels and clarify the position and design of porches on approved Accommodation Blocks B, Q1, Q2, R and T.
- 1.3 This site is 8.85 hectares (21.87 acres), the former Pontins Holiday Centre, Hemsby located between Beach Road, Back Market Lane, Newport Road and Kingsway. It is joined to the east, north and south by housing and to the west by the Florida Holiday Park and the Bermuda Holiday Park. The site is located inside of the village development limits for Hemsby.
- 1.4 The holiday centre closed in 2009 and has since remained vacant. Many of the former holiday chalets and other buildings and structures remain on site following the permission granted under 06/20/0422/F any many remain in a mid-construction phase, following a period of being in a derelict condition and previous incidents of vandalism and arson.
- 1.5 Officers consider that this proposal would amend Condition 6 without changing the description of the original permission's proposal and as such the proposal would be within the scope of a 'minor material amendment' which can be made under S73 of the Town and Country Planning Act 1990.
- 1.6 The parent planning permission was subject to a Section 106 Agreement planning obligation which includes a clause (ref 6.10) which states that if the original permission is subject to a S73 application for the removal and/or amendment of a condition of that planning permission then the obligations in that original deed will also apply to any new planning permission if so agreed by the Council. Officers consider that this application to amend the approved plans in a limited way would fall within these parameters and the existing S106 would not need to be modified and would still apply to the development as amended.
- 1.7 Works have commenced on site and the development is being built out in phases. No pre-commencement conditions remain undischarged.

## **2. The Proposal**

- 2.1 The proposal is for the Variation of Condition 6 of 06/20/0422/F for the amendment to approved plans to install solar panels and clarify the position and design of porches on approved Accommodation Blocks B, Q1, Q2, R and T and 8 of planning permission.
- 2.2 The revised drawings submitted with this application indicate the locations for installation of PV panels on roofs of all referenced blocks and correct location of porches with regard to Block Q1 and clarification of porch walls and cladding consistent with the overall scheme in relation to block Q2 and Block R.

### **3. Site constraints**

- 3.1 The site lies within the development limits of Hemsby and within an affordable housing sub-market area as well as the designated site for land at the former Pontins Holiday Centre (HY1).
- 3.2 Policy HY1 provides that this land at the former Pontins Holiday Camp, Hemsby (of around 8.9 hectares) as identified on the Policies Map, is allocated for approximately 190 dwellings together with tourism and retail facilities.
- 3.3 It also is located within the adopted Hemsby Neighbourhood Plan Area. It adjoins but is not part of a defined Holiday Accommodation Area under policy L1. Policy L1: encourages year-round, sustainable tourism; and supports proposals which upgrade or enhance existing or replacement visitor accommodation and ancillary tourist facilities as well as resist the loss of tourism uses to non-tourism uses.

### **4. Relevant Planning History**

- 4.1 There have been numerous planning applications over the past years on the site related to its holiday use.
- 4.2 06/20/0422/F  
Proposed application for mixed use scheme comprised of 188 no. dwellings and 91 no. holiday lodges to let following partial demolitions, new shop, leisure centre with a gym and spa, cafe and communal areas with associated highways works.  
Granted 6<sup>th</sup> July 2021.
- 4.3 06/22/0716/CD  
Discharge of Condition 20 (archaeology investigations) of permission 06/20/0422/F.  
Part A Discharged 17th October 2022.
- 4.4 06/21/0729/CD  
Discharge of Conditions 13 (parking for construction workers), 14 (Construction Management Plan), 18 (Bird and bat boxes), 19 (Surface water drainage scheme), 21 (Phase 2 Contamination site investigation), 25 (Boundary treatment details), of 06/20/0422/F.  
Part Discharged on 21<sup>st</sup> July 2022.
- 4.5 06/21/0951/F  
Removal of condition 4 (holiday occupation restrictions: to allow occupation of the holiday accommodation units all year round) of 06/20/0422/F.  
Refused 2<sup>nd</sup> February 2022.
  - 4.5.1 The application was recommended for approval by Officers but was refused by the Development Control Committee on 02 February 2022.
  - 4.5.2 The reason given for refusing this variation was that for the LPA to retain control of the development and allow for maintenance of holiday units it would be necessary to retain a period of vacancy in occupation and retain control over the use of the units as a means to ensure there would be a continued availability of holiday accommodation. The Committee considered that removing Condition 4 would allow year-round occupation of the chalets and lodges or caravans, and undermine the expectation that these units should be used for the



purposes of holiday accommodation only, notwithstanding other limiting conditions 3 and 5 attached of the same planning permission.

- 4.6 06/23/0115/CD  
Discharge of Conditions 16 (Interim Travel Plan) and 20(c) (Archaeological investigation reports), of permission 06/20/0422/F.  
Discharged 16<sup>th</sup> May 2023.
- 4.7 06/21/0904/CD  
Discharge of conditions 6 (Development to accord with approved plans), 7 (Street maintenance and management details), 12 (Cycle parking details), of permission 06/20/0422/F.  
Conditions 7 and 12 discharged and 6 not discharged, 21<sup>st</sup> July 2022.
- 4.8 Of the conditions of permission 06/20/0422/F, it is notable that Condition 9 (regarding off-site highways works improvements) has not been discharged but is also a pre-commencement condition. It is understood that the Local Highway Authority has recently approved a set of drawings on 06 February 2024, but these have not been submitted to the LPA so the LPA cannot compare them to the requirements of the condition and without an application to discharge the condition the condition remains undischarged.
- 4.9 However, Officers consider that the condition is not a true 'condition precedent' condition and can be accommodated into this permission through requiring the offsite highways works details to be agreed and subsequently installed prior to the first occupation of the development, rather than prior to commencement. Any permission granted is recommended to be subject to a condition amended to this effect.

## 5. Consultations

### 5.1 County Highway Authority

**No comments.**

- 5.2. As there are no alterations to the consented highway layout, nor the proposed site layout, the Highway Authority has no comments.

### 5.3 Environmental Health Officer

**No objections to the proposal.**

### 5.4 Strategic Planning Officer

**No comments.**

## 6. Publicity & Representations

- 6.1 As an application for major development the proposal has been advertised by site notice and press advert. Consultation ended on 8<sup>th</sup> February 2024.

### 6.2 Ward Members – Cllr Galey and Cllr Bensley

- 6.2.1 No representations received.

### 6.3 Hemsby Parish Council

- 6.3.1 No objections subject to the proposal being in accordance with the Hemsby Design Code and Neighbourhood Plan policies.

### 6.4 Public Representations

- 6.4.1 A member of the public questioned why the 24 January 2024 version of the Committee Report had not appraised the proposal against the Hemsby Neighbourhood Plan or Hemsby Design Codes.
- 6.4.2 Officers can confirm the omission referred to was an oversight and have now included an appropriate assessment of these policies and associated guidance. The Neighbourhood Plan forms a statutory part of the local development plan, so the assessment is required before a decision is made. The Neighbourhood Plan is discussed below.

## 7. **Relevant Planning Policies**

### The Great Yarmouth Core Strategy (adopted 2015)

Policy CS1: Focusing on a sustainable future

Policy CS2: Achieving sustainable growth

Policy CS9: Encouraging well-designed, distinctive places

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

Policy GSP1: Development Limits

Policy A1: Amenity

Policy HY1: Land at Former Pontins Holiday Camp, Hemsby

### Hemsby Neighbourhood Plan (July 2023)

Policy 3 - Design

## 8. **Other Material Planning Considerations**

### National Planning Policy Framework (Dec 2023)

The policies in the Framework are material considerations which should be taken into account in dealing with applications.

### Hemby Design Codes (2022)

This is an unadopted guidance document which helps support and inform implementation of the Neighbourhood Plan. Page 64 addresses porches and page 72 concerns solar panels.

### Borough-wide Design Code Supplementary Planning Document (SPD)

The SPD was adopted by the Borough Council in January 2024, and the application has been appraised against the salient parts of the Code.

## 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;
  - Impact upon amenity; and
  - Other matters

## 10. Assessment

### Principle of Development

- 10.1 The principle of the development was established through the grant of planning permission under reference 06/20/0422/F, which Members resolved to approve at the Development Control Committee on 17<sup>th</sup> February 2021 and was granted by Decision Notice subject to a S106 agreement on 21<sup>st</sup> July 2021.
- 10.2 The variation of Condition 6, the approved plans, is proposed to include installing solar panels and to clarify the position and design of porches on approved Accommodation Blocks B, Q1, Q2, R & T.
- 10.3 This application is made under Section 73 of the Town and Country Planning Act 1990 (as amended), which allows 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.

- 10.4 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).
- 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 CS2, CS9 of the Core Strategy, and policies HY1 and A1 of the Local Plan Part 2, and Policy 3 of the Hemsby Neighbourhood Plan.

#### Impact on Character and Appearance

- 10.6 The proposed variation locates solar panels on the front and rear roofslopes of all of the blocks and amends the porches to reflect the cladding position and depth.
- 10.7 Policy CS9 supports proposals of high standard of quality. Policy 3 “Design” of Hemsby Neighbourhood Plan sets out the broad design requirements and states that developments should have regard to the Hemsby Design Codes, noting that the application site is within the ‘Hemsby beach’ character area (area ‘c’). The Hemsby Design Code also sets out expectations for new developments under its code ‘f’, discussed below.
- 10.8 The Hemsby Design Codes (2022) provide further detailed guidance with regard to development in the Hemsby Area. The code advises that it is important that the detailing and architectural elements used in new developments are of a high quality and reinforce the local character of Hemsby. For porches, it is noted that porches and terraces tend to be associated with the bungalow typology, especially in coastal locations such as Hemby’s. They can be considered as local feature elements that can create interest on the street. The proposed amendments are minor and considered by Officers to be in keeping with the existing buildings, and as such they are consistent with advice in the Hemsby Design Codes.
- 10.9 Page 72 addresses solar panels advising that the colour and finish of solar panels and how they reflect light should be chosen to fit in with the building or surroundings. The proposed panels are thin and frames black in colour and are considered by officers to be unobtrusive, in proportion to the building and laid out in symmetrical arrangements. Consistent with the guidance in the Hemsby Design Code.
- 10.10 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 06/20/0422/F. Accordingly officers consider that the proposal accords with Policy CS9 of the Core Strategy and Policy 3 of the Hemsby Neighbourhood Plan.

#### Impact upon Amenity

- 10.11 Policy A1 of the Great Yarmouth Local Plan Part 2 (2021) 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.

- 10.12 The proposed minor material amendments are confined to the installation of solar panels, and the amendments to the porches are proposed essentially in term of materials employed to be consistent with the rest of the development. Officers consider that there is not a significantly material impact, much less a materially adverse impact, on the amenity standards that will be enjoyed by future residents and as such the scheme accords with Policy A1.

#### Other Matters

- 10.13 Whilst some conditions have been discharged or part discharged others remain live. Any decision notice will reflect these changes in the decision notice should planning permission be granted.

Condition on 06/20/0422/F	Original Requirement	Post Modification	Proposed new pp condition
1	3 years commence works	Works have commenced	REMOVE
2	Removal of PD rights	Retained - reimpose	2
3	Limits to holiday use	Retained - reimpose	3
4	Limits to holiday use	Retained - reimpose	4
5	Limits to holiday use	Retained – reimpose	5
6	Accordance with Plans	Retain with revised plan numbers	1
7	Street Maintenance and Management Plans to be submitted for approval and implemented prior to occupation.	Modify - Implement the approved details from 06/21/0904/CD prior to occupation	18
8	Vehicle access and egress is to be limited to those points on submitted plans and works shall reinstate footways etc in accordance with a detailed scheme to be submitted with bringing into use new access.	Retain – the development is to be implemented with the approved details only; further details on highway verge reinstatement need to be submitted and agreed before accesses are closed.	10
9	A. Details for off site highway improvements to be submitted for LPA approval. B. Implement approved works prior to occupation.	Retain and reimpose in a modified form, to require details to be approved prior to first occupation rather than commencement.	13
10	Provide visibility splays pre-occupation and maintain thereafter	Retained - reimpose	14
11	Prior to occupation provide access layout on site and retain thereafter	Retained - reimpose	15

12	Cycle parking scheme details to be approved and implemented prior to occupation	Modify – Implement details as approved under 06/21/0904/CD prior to occupation	16
13	Parking for construction workers provided on site for duration and save for refurbishment provide details for approval prior to commencement	Modify – Implement details as approved under 06/21/0729/CD throughout construction period	6
14	Provide Construction Traffic Management Plan for approval pre-commencement	Remove (condition discharged)	Remove
15	Implement Construction Traffic Management Plan and maintain for construction period, including use of defined Access Route.	Modify – Implement details as approved under 06/21/0729/CD throughout construction period	7
16	Submit Interim Travel Plan on commencement of development for approval	Modify – Require use of the approved Interim Travel Plan from 06/23/0115/CD	9
17	Implementation of Interim Travel Plan pre-occupation. A Full Travel Plan to be submitted for approval within 1 year of occupation.	Retained - reimpose	18
18	Details of bird and bat boxes submitted for approval, erect and maintain prior to occupation. Use of hedgehog gaps in fencing.	Modify – require use of features approved under 06/21/0729/CD. Fences to require hedgehog gaps also.	16
19	Details of Surface Water Drainage to be submitted for approval. Approved scheme to be implemented prior to first occupation.	Modify – require use of drainage scheme approved under 06/21/0729/CD and to be complete prior to occupation.	11
20	Pre-occupation Archaeological scheme of investigation submitted for approval. Assessment completed prior to occupation.	Remove - All details approved and condition fully discharged.	Remove
21	Prior to commencement for development Phase 2 site investigation into contaminated land carried out. All remediation works agreed carried out prior to occupation.	Modify – Prior to occupation, provide contamination remediation works in accordance with details approved under 06/21/0729/CD.	20
22	Requirement to cease works if contamination found during construction.	Retained - reimpose	22

23	Fire Hydrant provision during construction	Retained - reimpose	21
24	Hours of construction work	Retained - reimpose	8
25	Prior to commencement of each phase of development details of boundary treatment submitted to LPA for approval and implemented as per approved plans prior to occupation.	Modify - Implementation of approved details before occupation in accordance with details approved under 06/21/0729/CD.	20

- 10.14 The Section 106 agreement which forms part of the parent planning permission Ref 06/20/0422/F contains a clause allowing changes under S.73 of the Act to proceed without the need to specifically amend the said s106 Agreement. As such, under clause 6.10 of the Agreement, this application requires no changes to the existing s106 agreement, but any new permission granted will continue to be bound by the terms of the section 106 agreement dated 05 July 2021.

#### Local Finance Considerations

- 10.15 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 above specified blocks and limited to PV panels located on the roof slopes of the blocks and materials employed for the porches.
- 11.2 Officers consider the impact to be non-material in social and economic terms and neutral to slightly positive in environmental terms (eg design and appearance and increased renewable energy generation). As such the scheme represents sustainable development for the purposes of the three strands set out in the NPPF; social, environmental and economic and as such, in the absence of any objections, officers recommend that planning permission should be granted subject to the conditions listed below.

### **12. Conclusion**

- 12.1 As set out above, the proposal is considered to be acceptable and the application is recommended for approval.

### 13. Recommendation

- 13.1 It is recommended that application 06/23/0678/VCF be APPROVED, subject to the following conditions listed below:

#### Conditions

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

1. The development shall be carried out in accordance with the following documents and drawing numbers listed below.

Notwithstanding the details shown in approved plans for Block E, external louvres shall be fitted to the first floor west facing windows on Block E to ensure the privacy of the occupants of the adjoining dwellings, details of the louvres shall be submitted to and agreed in writing by the local planning authority prior to the first occupation of Block E;

Plans and details received by the Local Planning Authority on 30th October 2023:

8164 P.39 Rev(C) Proposed Plans and Elevations Block T

8164 P.37 Rev (C) Proposed Plans and Elevations Block R

8164 P.36 Rev (C) Proposed Plans and Elevations Block Q2

8164 P.35 Rev (C) Proposed Plans and Elevations Block Q1

8164 P.13 (Rev C) Proposed Plans and Elevations Block B

Design State Energy Statement

Solar panel Specification GSE in roof Guide 2023

Solar Panel Specification Phone 420W Draco

And the following details approved under original planning permission 06/20/0422/F:

Arboricultural Impacts Assessment by BH Trees and Woodland dated 18 December 2020

8164 P.03E Proposed Masterplan,

8164 P.04C Proposed Masterplan Development Areas

8164 P.05D Proposed Masterplan Accommodation Plan

8164 P.06A Proposed Convenience Store

8164 P.07 Proposed Retail Store

8164 P.08 Proposed Leisure Complex Plans\_Elevations

8164 P.10 Proposed Welcome Centre Plans\_Elevations

8164 P.11F Proposed Block A1

8164 P.12A Proposed Block A2

8164 P.14A Proposed Block C1

8164 P.15A Proposed Block C2

8164 P.16A Proposed Block C3

8164 P.17A Proposed Block C4



8164 P.18A Proposed Block D1  
 8164 P.19A Proposed Block D2  
 8164 P.20A Proposed Block E1  
 8164 P.21A Proposed Block E2  
 8164 P.22A Proposed Block F  
 8164 P.23A Proposed Block G1  
 8164 P.24A Proposed Block G2  
 8164 P.25A Proposed Block H  
 8164 P.26A Proposed Block J  
 8164 P.27A Proposed Block K  
 8164 P.28A Proposed Block L  
 8164 P.29A Proposed Block M1  
 8164 P.30A Proposed Block M2  
 8164 P.31A Proposed Block N  
 8164 P.32A Proposed Block O  
 8164 P.33A Proposed Block P1  
 8164 P.34A Proposed Block P2  
 8164 P.40A Proposed Block U  
 8164 P.47 Proposed Highway Masterplan 1 of 2  
 8164 P.48 Proposed Highway Masterplan 2 of 2  
 2042-03/101A - Main Site Access, Kings Way  
 2042-03/102A - Beach Road Site Access  
 2042-03/103A - Local Store Access with new crossing (Barleycroft)

Reason: For the avoidance of doubt.

Removal of permitted development rights at the new dwellings

2. On completion of each dwellinghouse hereby permitted notwithstanding The Town and Country Planning (General Permitted Development) (England) Order 2015 no further development shall take place under Schedule 2 Part 1, Class A - enlargement, improvement or other alteration of a dwellinghouse unless otherwise agreed in writing with the local planning authority.

Reason: To safeguard the amenity of occupiers. Many of the rear gardens of the dwellinghouses hereby permitted are less than 50sqm. Without due consideration enlargement of the dwellinghouse may have a detrimental impact on residential amenity.

Limits to use of the caravans/holiday chalets – use as holiday accommodation only

3. The caravan/holiday units shall be used to provide holiday accommodation only and they shall not be used as permanent unrestricted accommodation or as a primary place of residence.

Reason: To enable the Local Planning Authority to retain control over the use of the caravans for holiday accommodation.

Limits to use of the caravans/holiday chalets – maintain an up-to-date register of occupiers

4. The owners/operators of the holiday park shall maintain an up-to-date register of the names of all owners/occupiers of individual caravans and of their main home addresses and shall make this information available at all reasonable times to the Local Planning Authority.

Reason: To enable the Local Planning Authority to retain control over the use of the caravans for holiday accommodation in an area where permanent residential accommodation would not normally be permitted.

Limits to use of the caravans/holiday chalets – no occupation over 2 weeks in any year

5. The caravan/holiday units shall be not be occupied from 14th January to the 1 February in each year.

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.

Parking for construction workers

6. Parking for construction workers shall be provided on site for the duration of the construction period of the development hereby permitted, in strict accordance with the details of document CTMP V2 received by the Local Planning Authority on 6th September 2021 and as approved by application ref 06/21/0729/CD. The scheme shall be implemented throughout the construction period.

Reason: To ensure adequate off-street parking during construction in the interests of highway safety.

Adherence to Construction Management Plan including Construction Traffic Access Route

7. For the duration of the construction period the development hereby permitted shall be constructed in strict accordance with the details of the Construction Traffic Management Plan (CTMP) V2 and Access Route received by the Local Planning Authority on the 6th September 2021 and approved under application ref. 06/21/0729/CD. All traffic associated with the construction of the development will comply with the Construction Traffic Management Plan (CTMP) V2 details and shall use only the 'Construction Traffic Access Route' detailed therein, and shall use no other local roads unless first approved in writing by the Local Planning Authority.

Reason: In the interests of maintaining highway efficiency and safety.

#### Limits to Hours of Construction

8. Construction works shall not take place outside of the following hours:

07:30 to 18:00 Monday to Friday

08:30 to 13:30 Saturday

And no work shall take place on Sundays and Public Holidays.

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

Reason: To enable the Local Planning Authority to retain control over the use of the caravans for holiday accommodation

#### Interim Travel Plan

9. The development hereby permitted shall be carried out in accordance with the Interim Travel Plan MA/VL/P20-2042/07 Rev C dated July 2021, approved under application reference 06/23/0115/CD. The development shall take place in accordance with the approved details until adoption of the Full Travel Plan required by this permission.

Reason: To ensure that the development offers a wide range of travel choices to reduce the impact of travel and transport on the environment.

#### Access and egress points

10. Vehicular/pedestrian/cyclist access to and egress from the adjoining highway shall be limited to the accesses shown on the Masterplan, Drawing Nos. 8164 P.47 and 8164 P.48 only, provided access layouts are revised so they are accommodate safe pedestrian movements and are perpendicular to Kingsway for a distance of 15 metres. Any other access or egress shall be permanently closed, and the footway/highway verge shall be reinstated in accordance with a detailed scheme to be agreed with the Local Planning Authority concurrently with the bringing into use of the new access.

Reason: In the interests of highway safety.

#### Surface water drainage

11. The development hereby permitted shall be undertaken in strict accordance with the following detailed designs of surface water drainage scheme, as approved under application ref. 06/21/0729/CD:

- Drainage Strategy Summary, by Create Consulting, ref: JP/VL/P20-2042/08, dated 13 October 2021.
- Surface Water Drainage Layout, plan ref. 02/003, dated 20/08/21.
- Proposed Drainage Layout, plan ref. B-10, Rev C, dated June 2021.
- Surface Water Drainage Manhole Schedule, plan ref. 02/005, dated 20/08/21.
- Surface Water Drainage Standard Details, plan ref. 02/006, dated 20/08/21.

There shall be no occupation of the development hereby permitted until the surface water drainage scheme has been fully implemented in accordance with the approved details.

Reason: To prevent flooding in accordance with National Planning Policy Framework by ensuring the satisfactory management of local flood risk, surface water flow paths, storage and disposal of surface water from the site in a range of rainfall events and ensuring the SuDS proposed operates as designed for the lifetime of the development.

#### Off-site Highway Improvement Works

12. Part A –

Notwithstanding the details indicated on the submitted drawings, there shall be no occupation of the development hereby permitted until detailed drawings for the off-site highway improvement works in the form of push button pedestrian crossing, and bus stops with shelters and footway improvements, as indicated on Drawing Nos. 2042 03/101 A, 2042 03/102 A and 2042 03/103 A, have first been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, the junction / pedestrian crossing layout at Beach Road as indicated on drawing no. 2042 03/102 A is not appropriate and will require revision.

Part B –

There shall be no occupation or use of the development hereby permitted until the off-site highway improvement works (including Public Rights of Way works) referred to in Part A of this condition have first been installed and completed to the written satisfaction of the Local Planning Authority.

Reason: To ensure that the highway improvement works are designed to an appropriate standard in the interest of highway safety and to protect the environment of the local highway corridor, and to ensure that the highway network is adequate to cater for the development proposed.

#### Visibility splays

13. Prior to the first occupation/use of the development hereby permitted visibility splays shall be provided in full accordance with the details indicated on drawing numbers 2042 03/101 A, 2042 03/102 A and 2042 03/103 A. The splays shall thereafter be maintained at all times free from any obstruction exceeding 0.225 metres above the level of the adjacent highway carriageway.

Reason: In the interests of highway safety in accordance with the principles of the NPPF.

#### Highways infrastructure within the site

14. Prior to the first occupation/use of each part of the development hereby permitted the proposed access/on-site car and cycle parking/servicing/loading/unloading/turning/waiting area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.

Reason: To ensure the permanent availability of the parking/manoeuvring areas, in the interests of satisfactory development and highway safety.

#### Cycle parking

15. Prior to first occupation/use of the development hereby permitted the scheme for the parking of cycles shown on drawing number 8164 P.03 Rev F as approved under application ref. 06/21/0904/CD shall be fully implemented before the development is first occupied or brought into use and shall thereafter be retained for this purpose.

Reason: To ensure the provision of adequate cycle parking that meets the needs of occupiers of the proposed development and in the interests of encouraging the use of sustainable modes of transport.

#### Bird and bat boxes and hedgehog access

16. Part A –

There shall be no occupation or use of the development hereby permitted until no less than 10no. bird boxes, 5no. swift boxes and 10no. bat boxes have first been installed within the development in strict accordance with the details shown on drawing 8164 P51A received by the Local Planning Authority on the 21st July 2022 and as approved under application ref. 06/21/0729/CD. The bird and bat box features shall thereafter be retained in perpetuity.

Part B –

All boundary fencing to be erected on site shall have 20cm x20cm gaps at ground level, unless otherwise agreed with the Local Planning Authority, at each boundary point to allow the free movement of hedgehogs through the site.

Reason: To provide ecological enhancements on site in accordance with paragraph 176 of the NPPF and the documents submitted in support of the application.

#### Street maintenance

17. The development hereby permitted shall be operated in strict accordance with the details of the arrangements for future management and maintenance of the proposed streets within the development as shown within the document entitled 'Site Management and Maintenance Plan for The Pine Estate Management Ltd (Private Management and Maintenance Company registered office Delta 3a Masterford Office Village, West Rd, Ipswich, IP3 9FH') as received by the Local Planning Authority 28 10 2021 and as approved under application ref. 06/21/0904/CD. The streets within the development shall thereafter be maintained in accordance with the approved management and maintenance details until such time as a Private Management and Maintenance Company has been established.

Reason: To ensure estate roads are managed and maintained to a suitable standard

#### Full Travel Plan

18. Part A –

No part of the development hereby permitted shall be occupied prior to implementation of the Interim Travel Plan document ref. MA/VL/P20-2042/07 Rev C dated July 2021, received and approved under application ref. 06/23/0115/CD.

## Part B –

During the first year of occupation an approved Full Travel Plan based on the Interim Travel Plan referred to in Part A of this Condition shall be submitted to and approved in writing by the Local Planning Authority. The approved Full Travel Plan shall be implemented in accordance with the timetable and targets contained therein and shall continue to be implemented as long as any part of the development is occupied subject to approved modifications agreed by the Local Planning Authority as part of the annual review.

Reason: To ensure that the development offers a wide range of travel choices to reduce the impact of travel and transport on the environment.

### Contamination remediation

19. There shall be no occupation of any buildings on site until the agreed remediation works for the development have first been undertaken in strict accordance with the measures approved within the document Remediation Method Statement Rev B, by Create Consulting Ref TB/CC/P20-2042/06 Rev B dated March 2021, as approved under application ref. 06/21/0729/CD, to be undertaken to the satisfaction of 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.

### Boundary treatments

20. Prior to the first occupation or use of each dwelling, holiday chalet or holiday lodge, the approved boundary treatments for that premises shall be erected in accordance with the details shown within drawing 8164 P51A received by the Local Planning Authority 21st July 2022 and approved under application ref. 06/21/0729/CD, in accordance with the details for those premises to which they relate.

Reason: To ensure that adequate boundary treatments are provided.

### Fire hydrants

21. One fire hydrant per 50 dwellings rounded up to the nearest 50th dwelling served by the mains supply (min 90mm main) shall be provided in the residential development during the course of construction, to the written satisfaction of the Local Planning Authority in consultation with Norfolk Fire Service. The developer will incur the full cost of the hydrant/s and its installation by the Water company.

Reason: In the interest of public safety.

### Unexpected contamination

22. In the event that 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.

### **Informative Notes**

1 Informative Note: Reason for Approval

The proposal complies with the aims of Policies CS1, CS2, CS3, CS9-CS16 of the Great Yarmouth Core Strategy and Policies A1, A2 and HY1 of the adopted Local Plan Part 2, is in accordance with Policy 3 of the Hemsby Neighbourhood Plan, and satisfies the expectations of the Great Yarmouth Borough-wide Design Code Supplementary Planning Document.

2 Informative Note: 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. It is confirmed that this shadow HRA submitted by the applicant has been assessed as being suitable for the Borough Council as competent authority to use as the HRA record for the determination of the planning application, in accordance with the Conservation of Habitats and Species Regulations 2017.

3 Informative Note: Section 106 Agreement and Planning Obligations

This permission is subject to the terms of a Section 106 Agreement dated 05 July 2021 which contains planning obligations which must be discharged as part of this development. This permission should be read in conjunction with the agreement dated 05 July 2021 made pursuant to Section 106 of the Town and Country Planning Act. The S106 Agreement contains provisions including but not limited to: Holiday Accommodation, long term management of the Leisure Facility, Open Space, Sustainable Drainage Systems, Internal Highways and Parking Areas and Natura 2000 contributions.

4 Informative Note: Conditions Discharge

Continued resolution of the required conditions discharge is strongly encouraged in particular with regard to details of highways access and surface water detention.

5 Informative Note – Decision Notice wording

Please be advised that the version of the Decision Notice for permission 06/20/0422/F which was re-issued on 14 February 2022 is the definitive version and was issued solely for the purposes of removing a discrepancy in the description of proposed development.

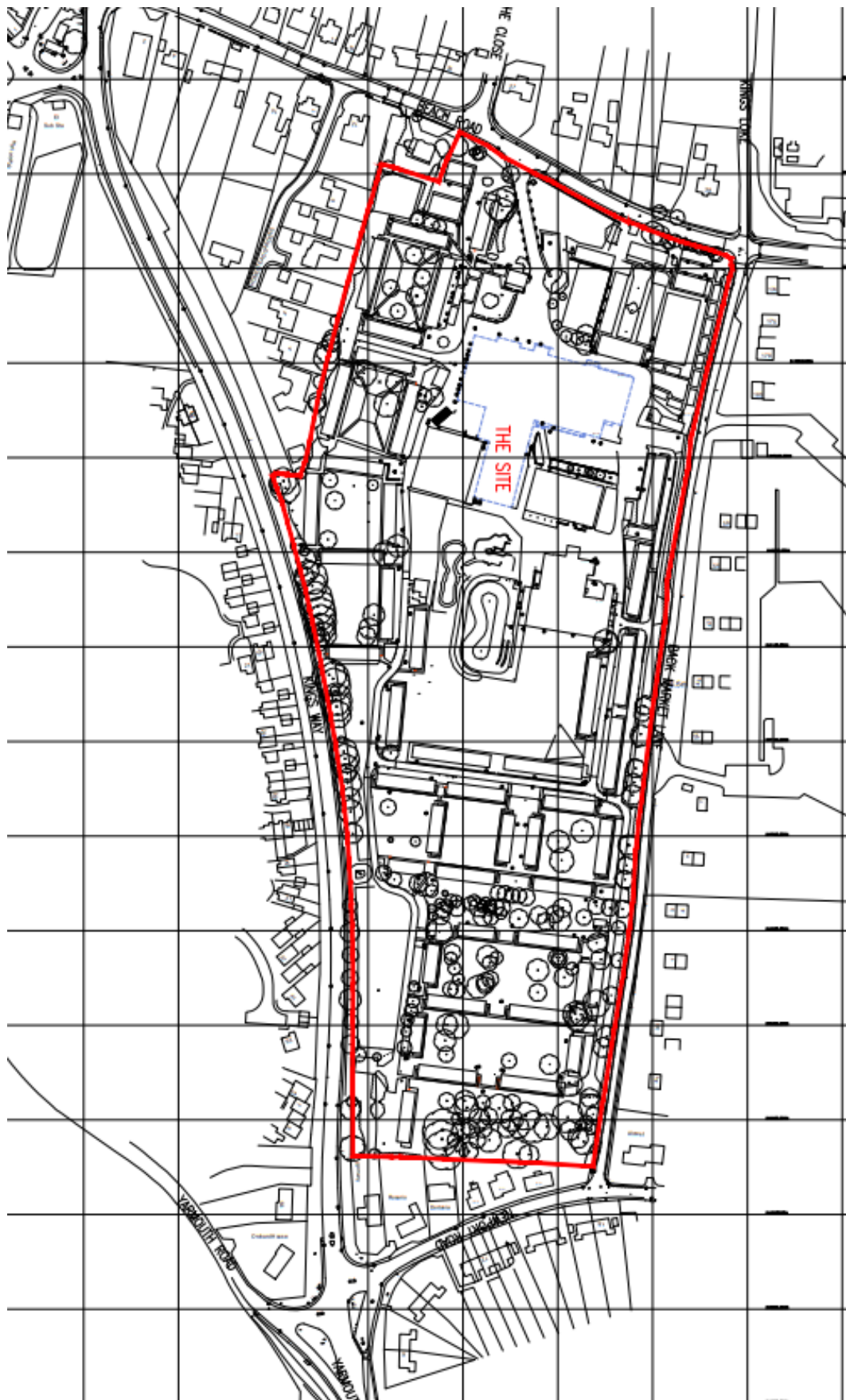
The initial submission of application 06/20/0422/F proposed 91 no. units of holiday accommodation, but the revised proposals reduced the scheme to 88 no. units of holiday accommodation which was not hitherto reflected in the originally-issued decision notice.

For the avoidance of doubt, 88 units are shown on the approved revised Masterplan P.03 Rev E and conditions within the permission require the development to be undertaken in accordance with the same masterplan; as such only 88 are allowed within the permission.

This amendment was undertaken following agreement with the agent representing the site landowner on 26 January 2022.



## Appendix 1: Site Location Plan



## Development Management Committee Report



Committee Date: **21 February 2024**

Application Number	06/23/0847/CU – (Click <a href="#">here</a> to see application webpage)
Site Location	1 Carrel Road, Gorleston, Great Yarmouth, NR31 7RF
Proposal	Retrospective application for the construction of residential driveway and change of use of land from open space/amenity land to private residential curtilage
Applicant	Mr & Mrs Fish
Case officer	Ellie Nutman
Parish & Ward	Gorleston Ward
Date Valid	12 January 2024
Expiry Date	08 March 2024
Reason at committee	Connected application: The land the subject of this application is owned by Great Yarmouth Borough Council.
Procedural notes	This application was reported to the Monitoring Officer as an application submitted for development 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 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: DELEGATE TO HEAD OF PLANNING TO APPROVE SUBJECT TO NO ADVERSE COMMENTS FROM LOCAL WARD COUNCILLORS AND CONDITIONS**

#### **1. The Site**

- 1.1 The application site is located in Gorleston within the housing estate situated south of the James Paget Hospital. The area consists of a mixture of detached, semi-detached and terraced dwellings.
- 1.2 The application site is a detached dwelling that benefits from a large drive and private garden space to the rear of the property.

1.3 There are a number of dwellings within the area, such as 5 Carrel Road and 2 and MacKenzie Close, that can be seen with large front drives.

1.4 There is a narrow strip of grassed open amenity land to the north of the site that stretched around the curved public footpath adjacent to Wood Farm Lane which continues into Carrel Road.

## **2. The Proposal**

2.1 This is a planning application that seeks retrospective permission for the construction of a private residential driveway and parking area and change of use of the land from being formal open space / public amenity land into use as part of a private residential curtilage.

2.2 The application is retrospective because the driveway has been constructed in full and the change of use has already commenced, and the application seeks to retain the residential driveway.

## **3. Site Constraints**

3.1 The land the subject of the retrospective development has a formal planning designation of being public amenity land and open space established by Section 106 Agreement.

3.2 The land is public open space and the type of open space is considered as "Informal Amenity Green Space" land as defined by the Open Space Supplementary Planning Document (SPD).

## **4. Relevant Planning History**

4.1 The site is within the Wood Farm Lane Housing Development that was carried out between the period of 1994 when the outline application was first received and 2007-2010 where the last dwellings on the estate were completed as seen from aerial map images.

4.2 The parent permission for the housing development is outline application 06/94/0247/SU, and there were various other applications such as 06/98/0466/SU that sought to vary conditions, and 06/03/0704/D which held details of reserved matters. The relevant planning history is detailed below:

4.3 06/94/0247/SU - Land part of Wood Farm Lane  
Business/commercial park and residential with associated landscaping and open space  
APPROVED 27 July 1995

4.4 06/98/0466/SU - Wood Farm (part) Wood Farm Lane  
Variation of cond 1 of pp 06/94/0247/SU to allow development to commence no later than July 2003  
APPROVED 22 February 1999

4.5 06/03/0704/D - South Gorleston Development Area, Gorleston  
Twelve detached houses and garages (reserved matters)  
APPROVED 19 September 2003

- 4.6 06/08/0005/F - 1 Carrel Road, Gorleston  
Single storey side extension  
APPROVED 28 January 2008
- 4.7 There are no conditions on the various permissions concerning use of the open space.
- 4.8 The Section 106 Agreement which originally established the public open space land is dated 27 September 2002 and forms of part of planning permission 06/94/0247/SU and 06/98/0466/SU. The open space designation is set out at section 1.3 of the Agreement.
- 4.9 A Second Section 106 Agreement was completed pursuant to the reserved matters approval (ref 06/03/0704/D), dated 24 July 2003. That Agreement concerned the defined extent of the highway and footpaths, and sewerage, but did not affect the land the subject of this application.

## **5. Consultation Responses**

### **5.1 Local Highway Authority**

**No objection**

### **5.2 Arboricultural Officer**

**No objection**

Summary of response:

- 5.2.1 The works that have been undertaken are outside of any Root Protection Area (RPA) of any adjacent public trees and will have had little to no impact upon their retention span, condition and public visibility.
- 5.2.2 Due to the construction the residential driveway is now in closer proximity to the adjacent trees. These trees will impact upon the driveway in future due to the growth of the tree, including above and below ground.
- 5.2.3 The nearby trees are upon GYBC-owned land so there is no requirement for the implementation of a TPO to preserve the trees currently.

## **6. Publicity & Representations received**

- 6.1 Consultations undertaken: A site notice was posted at the site. Public consultation ran until 05 January 2024.
- 6.2 Ward Councillors
- 6.2.1 Planning Officers have noticed that Ward Councillors have not been expressly consulted due to an administrative oversight. Councillors Cllr Flaxman-Taylor and Cllr Wells were consulted on 08 February and invited to provide comments by 29 February 2024.
- 6.2.2 At the time of writing, no comments have been received. Officers will endeavour to obtain a written position from the Ward Councillors before the Committee meeting and provide an update to the meeting.

- 6.2.3 In the event that comments are not provided by 21 February, the Officer recommendation will seek authority to determine the application at the end of the Ward Councillor consultation period, ie. from 29 February 2024.

## 6.3 Public Representations

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

## 7. **Relevant Planning Policies**

### The Great Yarmouth Core Strategy (adopted 2015)

- Policy CS09: Encouraging well-designed, distinctive places.
- Policy CS11: Enhancing the natural environment.
- Policy CS15: Providing and protecting community assets and green infrastructure

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

- Policy GSP1: Development Limits
- Policy A1: Amenity
- Policy H9: Residential Extensions
- Policy E3: Protection of open spaces

## 8. **Other Material Planning Considerations**

### Supplementary Planning Documents

Open Space SPD (adopted February 2023)

### National Planning Policy Framework (Dec 2023)

- Section 4. Decision making
- Section 12. Achieving well-designed beautiful places
- Section 15. Conserving and enhancing the natural 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.

### Main Issues

9.3 The main planning issues for consideration include:

- Principle of development
- Relevance of legal agreement
- Amenity
- Impact on open space
- Planning obligations

## **10. Assessment**

### Principle of Development - residential extensions

- 10.1 The site is situated within Gorleston, on the corner of Woodfarm Lane and Carrel Road. The surrounding area is predominantly residential. The land subject of this application was created as informal public open space under the S106 relating to planning permission 06/94/0247/SU as varied by 06/98/0466/SU and is therefore considered public amenity space.
- 10.2 To the north of the site is the James Paget Hospital and to the south of the site lies a business and commercial park. As a residential area inside the development limits it is acceptable in principle under policies CS1 and H9 to undertake householder developments and residential curtilage extensions when it is demonstrated that they either maintain or enhance the character and appearance of the building and surrounding area and that any developments proposed do not deprive the area of suitable amenity.
- 10.3 As aforementioned, dwellings 5 Carrel Road and 2 and 4 MacKenzie Close all benefit from a generous amount of hard surfacing to the front of their properties, and therefore it can be argued that the proposed drive is not out character for the area and therefore maintains the overall form and appearance of this part of Gorleston.

### Principle of Development – Loss of public open space

- 10.4 Core Policy CS15 states that open spaces and green assets positively contribute to the surrounding environment. Policy E3 sets out the importance of open space and circumstance in which it can be subject to development or removed from that use.
- 10.5 In the planning case officer's opinion, the land subject of this application, prior to the development of the land as a drive, would be classed as 'Informal Amenity Green Space' as defined under the adopted Open Space Supplementary Planning Document. Informal amenity green space is described on pages 20 and 21 of the SPD as:

*"Informal amenity green space provides opportunities for informal activities close to home or work or enhancement of the appearance of residential or other areas which are publicly accessible. Such spaces will be grass covered and will be expected to include tree and hedge planting to landscape the area and enhance biodiversity (this could assist with meeting the requirements of Biodiversity Net Gain). Informal amenity should be aesthetically pleasing as it contributes to the public realm. The site itself should be well over-looked by*

*surrounding residential properties.”*

- 10.6 From the above description it is considered that the land should be considered as ‘Informal Amenity Greenspace’. The consequent loss of open space as a result of the development is therefore resisted by local plan policies.
- 10.7 Policy E3 states that:
- “Open spaces which provide local amenity, or recreational benefit to the local community will be protected.*
- Development proposals that contribute to loss of either of these will only be permitted in limited circumstances and where:*
- (a) “The proposal is ancillary to the space and will add to the value and function of the local open space to the benefit of amenity or local community; or*
  - (b) The application can demonstrate that the local open space is no longer required in its existing open space use or an alternative open space use; or*
  - (c) The loss of space will be replaced by equivalent or better provision in terms of quantity and quality, including accessibility to the local community where relevant.”*
- 10.8 Policy E3 Supporting Text paragraph 10.14 states that:
- “In demonstrating whether an open space is no longer required, an applicant should undertake an open space needs assessment. This assessment should consider the provision of open space with the same use within the site catchment area, alternative open space uses and how the site relates to existing provision for each respective type of open space use in the locality.”*
- 10.9 As can be seen, there is a strong policy position against the loss of any form of open space, whether publicly accessible or not. Any loss must satisfy policy E3 criteria (a), (b), or (c).
- 10.10 The proposal does result in a loss of open space and the development is not ancillary to the space nor able to add value to the local open space to the benefit of amenity or the local community. There are no proposals to replace this open space within this application. The application therefore fails against criteria (a) and (c).
- 10.11 To justify the loss, the application must therefore address policy E3 criteria (b). The applicant has not attempted to provide an Open Space Needs Assessment as required by policy. Neither is there any evidence that the open space is no longer required in its former use.
- 10.12 Nevertheless, Officers have considered whether it can be argued that there is sufficient alternative resources available within the surrounding area.
- 10.13 The purpose of the land’s use as public open space was largely for the purposes of creating suitable appearance and visual amenity to support the urban design and living conditions of the residential estate. This area of the estate’s open space is considered ‘Informal Amenity Greenspace’ under the adopted Open Space Supplementary Planning Document (SPD). Whilst the Gorleston Ward does have an identified deficit of Informal Amenity Space (as is common for the whole Borough), the application site is considered to be only a very small amount of informal amenity space and before construction of the drive was not being used as formal or recreational open space.



- 10.14 The loss of the greenspace is regrettable, and only serves to exacerbate existing deficits, but on balance, it is the opinion of the planning officer that there is still a long stretch of grassed area that contributes to the appearance of the street scene, and this is considered to be sufficient to still provide the effect and purpose that the land was intended for originally.
- 10.15 Policy CS15 states: *"The Council will ... a) Resist the loss of important community facilities and/or green assets unless ... a detailed assessment clearly demonstrates there is no longer a need for the provision of the facility in the area."*
- 10.16 As discussed above in response to E3 and CS15, the remaining strip of grassed 'informal amenity greenspace' to the north of the site can be considered sufficient in providing the area with suitable alternative natural greenspace resource.

#### Relevance of S106 Agreement

- 10.17 The application site was one of the last dwellings to be completed within the Wood Farm housing development as it is shown on GYBC Aerial Map Images to have been completed between 2007 and 2010.
- 10.18 The S106 Agreement dated 27 September 2023 includes this application site as being part of the defined Open Space.
- 10.19 The Agreement requires at the Second Schedule paragraph 1.3 that the Council was to "lay out the Open Space as a public open space by 30 April 2022 *and thereafter maintain it in good condition*" (Planning Officer's emphasis).
- 10.20 Under the Agreement the transfer of the land from the developer to the Council was free of burdens and as there are no burdens on the land there are no other reasons to consider that this should not be treated as public open space.
- 10.21 The Agreement does not include anything to require the Open Space to be retained and used only as Open Space in perpetuity. Construction of the residential driveway on the public open space land means the entirety of the Open Space has not all been maintained in good condition, as required by the Agreement, but notwithstanding this, the principle of the loss of open space should be considered the determining factor.
- 10.22 The change of use of the land is considered acceptable in relation to the S106. The application must be considered on its own merits and it is considered that the loss of the small area of the wider Open Space will not be detrimental to the appreciation of the estate's design, character and appearance. Furthermore, it is not considered to be detrimental to the overall value that the site brings to the public realm.

#### Landscaping and urban design

- 10.23 The land subject of this application was part of an area designated for open green space upon the approval of application 06/94/0247/SU as amended by 06/98/0466/SU.
- 10.24 The residential estate was approved with the open space within this application site created as an important part of urban design and landscaping to provide important character within the overall development. There were no trees to be planted within the application site area, so it is not considered that the open space lost has a biodiversity or ecological function, meaning that its importance is found in the design and visual amenity benefits.



- 10.25 Whilst the protection of open spaces is vital, it is of the planning officer's opinion that there is already an adequate level of public open space existing in this area for the purposes of creating public realm and creating an appropriate urban design setting to the Wood Farm Lane housing estate. There are grassed open areas to the west, north and east of the application site.
- 10.26 Therefore, it can be considered that the change of use from open amenity space to residential curtilage does not significantly detract from the public value the remaining strip of open land provides and does not result in an unacceptable level of loss of public health or recreational benefits.
- 10.27 However, given the visibility of the site and its prominent position at the entrance of Carrell Road, it is considered that the development would be detrimental were the driveway to be used for commercial purposes or purposes other than residential parking, the prevention of which can be secured by planning condition on any permission.

#### Amenity

- 10.28 The change of use provides householder benefits as the development results in the provision of off-road parking. There is not considered to be any detrimental impacts on neighbouring dwellings and it will create neighbourhood improvements by removing parking off-street.
- 10.29 The loss of amenity land and loss of visual amenity for the wider public is limited in terms of the harm caused, as discussed in the landscape impact section of the report.

#### Other Material Considerations

- 10.30 The applicant considers that the use has been as a driveway since 2008. No Certificate of Lawful Established Use or Development (CLEUD) has been applied for nor approved since then, but it might be open to the applicant to suggest that the change of use from open space to residential curtilage has been established by the passage of time for long enough to be immune from planning enforcement action. The Local Planning Authority can take no definitive position on the matter without a CLEUD application, but it is possible that a fallback position could exist which might mean that the change of use now would be considered lawful development.

#### Local Finance Considerations

- 10.31 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 In terms of the benefits that the change of use will provide, the provision of vehicular access and off-road parking provision will result in better design as it will free up the space on road, making the street scene more open and removing obstacles to traffic flow.
- 11.2 It is acknowledged that the retention of the driveway results in the permanent loss of the green, amenity space, but this is a small area of visual rather than functional use.
- 11.3 On balance this development is considered to be positive, there is no unacceptable conflict with local plan policies, and there is not sufficient harm to conclude that this development should be refused.

## **12. Conclusion**

- 12.1 The change of use from open space ('informal amenity greenspace') to residential curtilage creates a beneficial driveway, reduces the need for on-street parking, and does not detrimentally impact the area in terms of amenity and design.
- 12.2 Having considered the details provided, the application is considered to comply with policy CS15 from the adopted Core Strategy, and policies A1 and E3 from the adopted Local Plan Part 2.
- 12.3 Furthermore there could be a fall-back position to suggest that the development might otherwise be considered established due to the passage of time that has elapsed.
- 12.4 Although policies E3 and CS15 seek to avoid the loss of open space, it is considered that the development satisfies the criteria for allowing limited development on open space areas, by virtue of there being a suitable amount of existing open space available in the surrounding area. Given the possible fallback position, and when considering the benefits that the driveway provides to the occupants of the dwelling, and to the adjoining highway network it can be considered that the development is acceptable on balance. There are no other material considerations to suggest the application should not be recommended for approval.

## **13. Recommendation**

- 13.1 It is recommended that powers be delegated to the Head of Planning to APPROVE application reference 06/23/0847/CU should be, subject to:
  - i. not receiving any adverse comments from local Ward Councillors by 29<sup>th</sup> February 2024 which cannot be resolved by planning conditions, and
  - ii. subject to the following proposed conditions

### **Conditions**

#### Development to be retained in accordance with approved plans

1. The development hereby permitted shall be retained in accordance with the following plans received by the Local Authority on the 17<sup>th</sup> November 2023:

- Dwg No. 1862/1 Block Plan & Location Plan – Scale 1:500, 1:1250

Reason: For the avoidance of doubt.

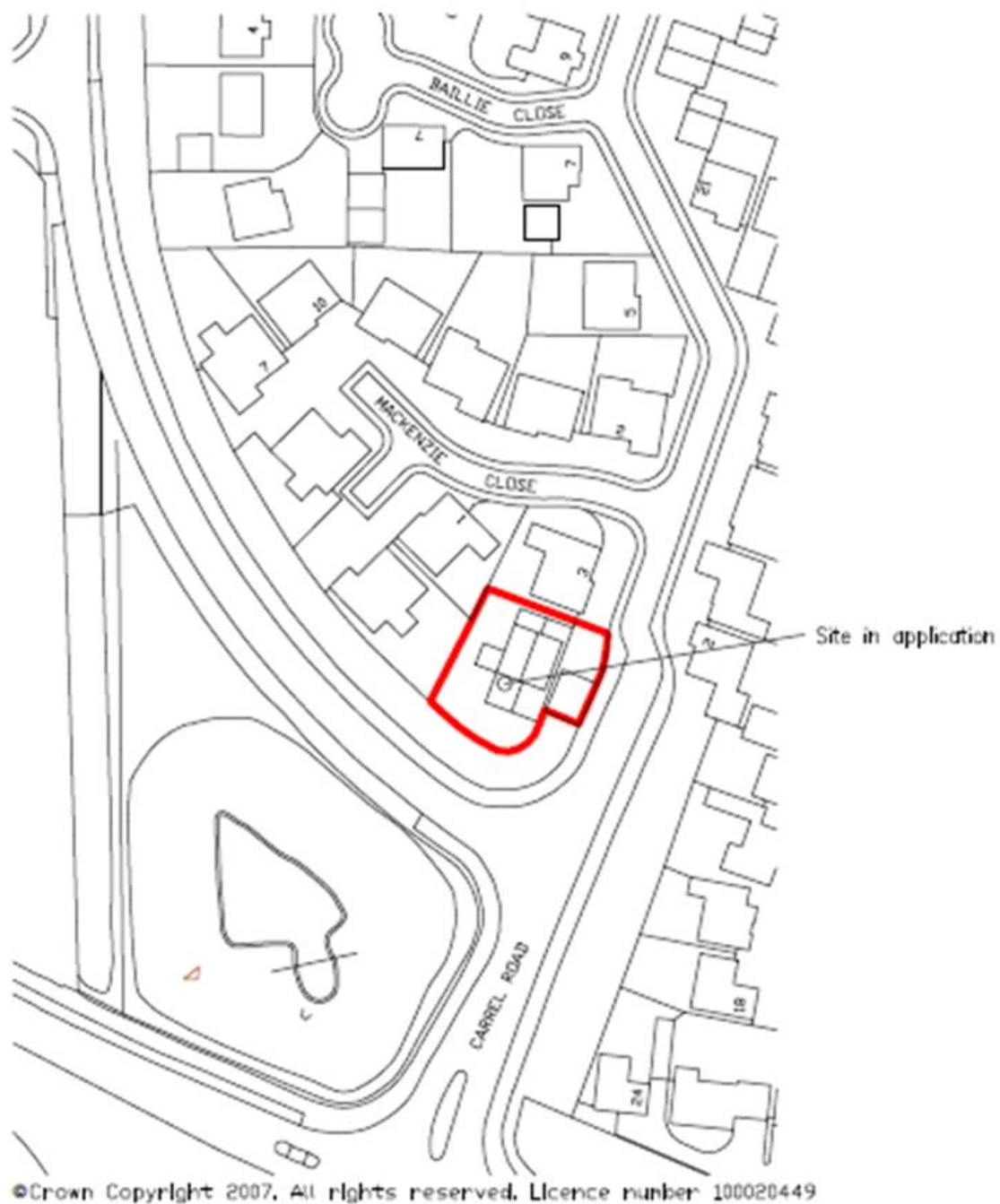
2. The driveway hereby permitted shall only be used for the parking of vehicles and for private domestic parking only. No commercial storage or activities shall take place from the driveway and no structures shall be erected or installed thereon.

Reason: For the avoidance of doubt and in the interests of maintaining the residential amenities and visual amenity of the surrounding area, in accordance with policies CS09 and A1, and in the interests of maintaining highways safety and minimising traffic impacts, in accordance with policy CS16.

### **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.

## APPENDIX 1: Site Location Plan



# 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'.



## Page 97 of 106



## Development Management Committee Report



Committee Date: **21 February 2024**

Application Number	06/23/0719/LB - Click <a href="#">here</a> to see application webpage
Site Location	Former Ice House, Bridge Road, Southtown, Great Yarmouth, NR31 0HY
Proposal	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
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 LISTED BUILDING CONSENT SUBJECT TO CONDITIONS

#### 1. The Site

- 1.1 Previous listed building consent 06/20/0643/LB was granted on 14<sup>th</sup> April 2021 at the same time as 06/20/0642/F was granted planning permission for the change of use to multi-functional training and educational venue for circus with fabrication space for equipment.
- 1.2 This proposal seeks to amend plans approved by listed building consent 06/20/0643/LB to revise the layout by relocating the 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 In the mid-19th century, the landmark Ice House was at the forefront of an industrial revolution that was key to the town's fortunes.
- 1.6 The Ice Hosue was built at the same time as Southtown railway station, meaning freshly caught fish could be packed using the ice stored in the building and transported to London's Billingsgate fish market, reaching a new consumer base. The building had a capacity for over 42,500 cubic metres, which meant that packed ice could stay frozen for months ensuring a steady supply of fresh herring to the capital and beyond.
- 1.7 However, advances in modern technologies saw it overtaken and overlooked, serving for a time as a grain store for JH Bunn who also renovated it in 1980.

## **2. The Proposal**

- 2.1 The proposal is effectively for a new listed building consent which includes the alterations approved by listed building consent 06/20/0643/LB with some minor changes which revise the layout by relocating the 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. Relevant Site Constraints**

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

## **4. Relevant Planning History**

- 4.1 There have been numerous planning applications over the past years on the site 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 06/23/0647/VCF  
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.  
THIS APPLICATION IS PENDING CONSIDERATION.

## 5. Consultation responses

### 5.1 Historic England

**No objection.**

### 5.2 Conservation Officer

**No objection.**

- 5.2.1 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 Site notices posted and press advert.

### 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

### The Great Yarmouth Core Strategy (adopted 2015)

- Policy CS9: Encouraging well-designed, distinctive places.
- Policy CS10: Safeguarding local heritage assets.

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

- Policy E5: Historic environment and heritage

## 8. Other Material Planning Considerations

### National Planning Policy Framework (Dec 2023)

NPPF, Conserving and Enhancing the Historic Environment, Section 16

### National Planning Practice Guidance topics

Historic environment

### Planning (Listed Buildings and Conservation Areas) Act 1990

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

## 10. Assessment:

### Principle of Development

- 10.1 The principle of the majority of changes having already been accepted was established through the grant of listed building consent reference 06/20/0643/LB.
- 10.2 The assessment of this application must consider the implications of the minor changes proposed since that consent was granted.
- 10.3 The proposed changes concern the appearance and positioning of the proposed external staircase and internal lift.
- 10.4 Policy CS9 supports proposals of a high standard of design quality, and 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 will result in an improvement in circulation routes and the accessibility of the building for those with disabilities. Accordingly officers consider that the proposal accords with Policies CS9 and CS10.

#### Heritage and Conservation

- 10.5 The Ice House is a Grade II listed building and contributes to the historic setting of the area as a reminder of Great Yarmouth's once-thriving fishing industry.
- 10.6 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.

#### Impact on the Listed Building

- 10.7 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

- 10.8 It can be argued that the proposal preserves and enhances the listed building 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.
- 10.9 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.
- 10.10 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.
- 10.11 The proposed amendments will amount to only a very small level of 'less than substantial' harm to the designated heritage asset. 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.

#### Other Matters

- 10.12 Whilst some conditions from the former listed building consent 06/20/0643/LB have been discharged or part-discharged, this is a new listed building consent proposal and conditions must be imposed afresh, but with relevance to the changes proposed in the application.

## **11. The Planning Balance**

- 11.1 The proposal seeks a new listed building consent with changes proposed since the previously-approved plans, in the form of a revise layout which relocates the previously-approved external staircase and internal lift.
- 11.2 The amendments will result in improved circulation routes and will cause a low level of 'less than substantial harm' to the historic character of the building, and where there is any harm caused, its impacts can be considered to be negligible.
- 11.3 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 proposals will be outweighed by the public benefit that is provided as a result.

## **12. Conclusion**

- 12.1 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 policy E5 of the Local Plan Part 2.

## **13. Recommendation**

It is recommended that the application ref. 06/23/0719/LB should be APPROVED subject to the conditions listed below:

### **Conditions**

#### Time limit

1. The development must be begun before the expiry of 3 years from the date of this decision.

Reason: Required to be imposed by section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and compulsory Purchase Act 2004

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

2. The development shall be carried out in accordance with the following plans and details received on the 27<sup>th</sup> December 2023 under application 06/23/0719/LB:

- 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 in accordance with the following plans and details approved under listed building consent 06/20/0643/LB:

- 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.

#### Historic Features

3. 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

4. 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 06/23/0719/LB.

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

#### Materials

5. 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

6. 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.

#### **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.

## Page 106 of 106

