

Schedule of Planning Applications

Committee Date: 22nd March 2023

- Application Number: **06/22/0762/VCU** - [Click here to see 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: 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 (1) allow the unlimited use for hot drink sales to take place between 1st March and 31st January (rather than for only 190 days and only between 01 March and 30 September), and (2) allow hot drink concession use to commence from 07:30hrs on any day rather than from 08:00hrs on any day)
- Applicant: Great Yarmouth Borough Council
- Case Officer: Natalie Levett
- Parish & Ward: Gorleston Ward
- Date Valid: 26th August 2022
- Expiry / EOT date: 31st March 2023
- Committee referral: Connected application – Great Yarmouth Borough Council is the applicant and owner of the application site.
- Procedural note 1: This application was reported to the Monitoring Officer 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 for their observations on 15/03/23, and the Monitoring Officer has checked the file and is 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.

RECOMMENDATION:

APPROVE, subject to conditions.

REPORT

1. Assessment

Note to the Committee:

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.

The Site/Background:

- 1.1 Application 06/21/1018/CU was considered and approved by the Development Control Committee on 2nd 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.
- 1.2 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.
- 1.3 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*).
- 1.4 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 to use the land for up to 56 days in a year.
- 1.5 Application 06/21/1018/CU was submitted 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 the opportunity to include other types of retail and food and drink sales, including hot food takeaways, also on a permanent basis.
- 1.6 The report to the Development Control Committee set out the reasons why a permanent permission was not appropriate and that only a temporary permission would be considered acceptable at that time. Members resolved to approve the application with an amended description to ensure that the proposal was temporary.
- 1.7 This application has arisen due to the popularity of the hot drink concession unit and the Council, as landowner, wishes to allow this unit to trade on a permanent basis. However, because the original permission was a temporary permission, the current proposal cannot be varied to be a permanent permission. As a result, a revised description of development was agreed to allow a longer operating period on a temporary basis.

2. The Proposal

- 2.1 The proposal is for the Variation of Conditions 4 and 8 of planning permission 06/21/1018/CU.
- 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 the hot drink concession unit to trade for more months throughout the year, and Condition 8 to amend the trading hours to allow a hot drink concession unit to commence its use 30 minutes earlier each day.

3. Relevant Planning History

- 3.1 **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 11th May 2022, following the meeting of the Development Control Committee on 2nd March 2022 and subsequent receipt of necessary additional information from the applicant.

The Officer report to the DC Committee Meeting on 02/03/22 and the minutes of the meeting are available via the following link:

<https://great-yarmouth.cmis.uk.com/great-yarmouth/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/1503/Committee/137/Default.aspx>

- 3.2 **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.

- 3.3 **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.

2. Consultations

- 2.1 When the intention of the application and the description of the development was clarified it required additional public consultation by site notice and in the press. The resulting consultation period does not end until 17th March 2023. Any responses received between completion of this report and the Committee meeting will be included in an Addendum Report circulated before the meeting and reported verbally to the Committee meeting.

Statutory Consultees

Highway Authority	Response: No objection.
Comments: No highway objection.	
Officer comment / response:	The originally imposed highway conditions would be included on the Decision Notice if this application were to be approved.
Any relevant Condition / Informative note?	Reimpose original highway conditions if application were to be approved

Internal Consultees

Environmental Health Officer	Response: No objection
Comments	
There is not a recorded history of noise issues from the premises' current use. As a result, the Environmental Protection Team has no reason to object to this application.	
Officer comment / response:	<p>The original conditions were imposed for the protection of the residential amenity of the surrounding area. No noise complaints have been received and, on this basis, there would be no environmental protection reason to prevent the amended condition.</p> <p>It is appreciated that various anecdotal complaints have been raised, including an enforcement investigation complaint, regarding the unauthorised earlier start and the noise from dogs in particular. These are either addressed in the report below, or were considered extensively in the original planning application. There has not been any previous or current formal statutory noise nuisance complaint nor investigation.</p>
Any relevant Condition/ Informative note?	Original conditions could be amended to that requested by the applicant from an amenity perspective.

Conservation Officer	Response: No objection
Comments	
There will be no comments from the Conservation Team.	
Officer comment / response:	The original conditions were imposed for the protection of the Conservation Area.
Any relevant Condition / Informative note?	The relevant conditions can be updated to reflect the requested amendments so that the adjacent Conservation Area is preserved.

3. Publicity & Representations received

Consultations undertaken: Site notices and Press Advert

Reasons for consultation: Development within a Conservation Area

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

No representations made at the time of writing.

3.2. Public Representations

At the time of writing 53 public comments were received to the original submission; four objections, and 49 in support and/or provided comments. Following the re-consultation period, 12 further public comments were received; 3 objections and 6 in support and 3 general comments. The representations raised are summarised below.

Objections / Concerns:

Representation	Officer Comment
<p>Noise and Disturbance:</p> <p>Residents are being woken up at just after 0700hrs each morning by people gathering around the coffee vendor who is consistently set up and serving by 0715hrs.</p> <p>Inappropriate start time and strongly object to 0730hrs serving time due to residential area and dogs barking.</p> <p>Signs should be erected to ask people to be respectful of the residential area.</p> <p>Seven-day use before 0800hrs is unacceptable due to barking dogs before 0800hrs.</p> <p>The amendment will mean that residents will no longer be afforded peace in the winter months due to barking dogs associated with the proposal.</p> <p>Barista Buoy has not traded since the end of September 2022, from thereon it became very noticeable the early morning noise problem disappeared, especially the barking dogs. People have spoken with Barista Buoy to address the problem, who has tried so to do without success.</p> <p>The original permission was granted on the basis that these should be seasonal plots and agreed at the planning meeting that this is what they were. Nothing has changed since then. No consideration whatsoever has been granted to the people who have lived here for many more years than the plots have been trading. As this is the only current trader, it is assumed that every other license holder will, in time, ask for their 'Special circumstances' to be considered and their license tailored to their specific needs.</p>	<p>The Environmental Protection team has confirmed that no noise complaints have been received as such they do not object to the continued use of the hot drinks concession unit.</p> <p>Due to the nature of the area, it would attract dog walkers and some dogs do bark. However, barking dogs would not be as a result of the presence of the concession unit <i>per se</i>, although it is acknowledged that the gathering of people with dogs encourages more barking. As such, this would not be a reason for refusal because a permission could not control whether or not customers' or other walkers' dogs bark and it is not the operator's responsibility to control dog barking. In addition, it would not be appropriate to erect signs asking people to be respectful of the residential area because that is a societal norm in any type of area and thus would not be reasonable in this instance.</p> <p>Although various anecdotal complaints have been raised regarding unauthorised earlier starts and the noise from dogs in particular, the issue was considered extensively in the original planning application.</p> <p>There has not been any previous or current formal statutory noise nuisance complaint nor investigation</p> <p>Each planning application is assessed on their own merits.</p>
<p>Opening times and car park use:</p>	

<p>Why is the 0800hrs start not enforced rather than vary the planning condition for just one of three potential vendors to start at 0730hrs? The car park opening hours are from 0800hrs, but never enforced.</p> <p>To change the time seems unnecessary and is a nuisance (noise) to those living nearby. This seems to be because the Council is unable to arrange the existing security firm to delay unlocking the car park barrier until 8am. If so, perhaps other such firms could be approached?</p>	<p>The applicant has advised that the concession unit holder did start earlier than the permission allowed but was advised of this and now keeps to the permitted hours. The application has been submitted due to the popularity of the unit and at the request of users. Given the distance from other properties and the nature of the proposal, together with having no complaints received by the Environmental Protection or Planning Teams, it is considered there would not be a severe adverse impact on the neighbouring amenity sufficient to justify refusal.</p> <p>Whilst the Car Park's opening hours are not a Planning matter, the applicant has advised that a number of car parks have the same opening hours so the firm has to make sure that all are open on time and a route is followed to do so which may occasionally mean this opens earlier than others.</p> <p>This is not a planning matter and discrepancies with access to the car park cannot resolved by this application.</p>
<p>Character of the area:</p> <p>This is not a commercial area and people visit it because of that.</p> <p>GYBC are encouraging the use of throw away packaging, not discouraging it like other businesses.</p> <p>GYBC does not know if the cups are recyclable and cannot know if they will be if the licensee has ceased trading.</p>	<p>The impacts on the character of the area were considered at length through the previous / original application 06/21/1018/CU.</p> <p>The applicant has advised that it is their understanding that the cups are recyclable.</p> <p>Matters of the types of cups and their ability to be recycled are more appropriately dealt with by the landowner's licensing process where such stipulations can be imposed.</p>
<p>Non-material issues:</p> <p>Barista Buoy has now passed his business to a friend. If this means the business has a new owner does this not mean a new contract is needed?</p> <p>Any new franchisee will have to win the tender for the franchise as the Council Property Services officers have confirmed to our Ward Councillor that there is no provision for the previous franchise to be assigned to another person.</p>	<p>Operation / business ownership is not a material planning consideration.</p> <p>The planning permission already granted is not specific to a company, as personal permissions are only to be in exceptional circumstances, as outlined in legislation and guidance. As a result, if Barista Bouy has been sold and/or another hot drink concession unit is provided on site, this would not be a breach of Planning permission, nor</p>

	<p>should the name or character of the operator / business owner be a reason for making any planning decisions.</p> <p>A license to operate is able to look consider the credentials of the proposed licensee but this is not a planning matter which only considers the used of the land.</p>
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Support/General Comments:

<p>Representations:</p>
<ul style="list-style-type: none"> • Support the concession owner to trade for 12 months. • Dog walkers will continue to use the car park and area regardless of whether the unit is present. Dogs will bark at each other regardless of the presence of the concession unit. • A frequent daily user of the seafront most mornings and never heard dogs barking near the Barista Buoy. It is so quiet you wouldn't know it was there. • Support should be given to this small business in the current environment. • This would be great for people's wellbeing and mental health as they have the opportunity to meet and have a drink combined with early morning walk, chill out sitting on a bench and meet people and have a chat before going back home (especially those who now work from home or who are retired). • The hot drinks vendor is excellent and a bonus for people visiting the cliffs. An earlier start would benefit walkers and swimmers. • On the days the unit is not present, people are looking for it, so a year-round license would be better. Some people travel from outside of Gorleston to have a drink on the cliff top and then stay in the area and use other local shops; this can only be good for the area. • Barista Buoy has been a welcome addition and has brought visitors to the area and provides a welcome service to walkers along the upper promenade. The unit serves a need in this area and is well managed and run. • The area is for all residents of the borough, hence being located in the car park. The current coffee vendor, Barista Bouy, has no negative impact to the area only a positive impact encouraging walkers and a positive community spirit bringing people together who might otherwise not take the walk if not rewarded by a lovely brew at the end. • It is great being able to buy a coffee whilst watching the waves, and it is also great for people with mobility problems who are not able to walk very far, it's a great little business and an asset to the cliffs. • Barista Buoy should be allowed all year-round trade. Barista Buoy has become part of the Gorleston community selling quality products at affordable prices and mostly has a queue. He is polite, courteous and keeps a clean site. • Many disabled people pull up into the car park to buy a coffee and sit enjoying the view.

- It's such a pleasure being able to live so close to the beach. Going for a walk along the sea front doesn't stop local residents regardless of the time of year, particularly in winter when a coffee and a stroll is the perfect outing.

OFFICER COMMENT / RESPONSE:

The comments and support for the proposed amendments are noted. The proposal will be assessed in the main report below.

It is important to remind Committee that the application is for changing the way the land is used for a coffee vendor, and not the qualities or behaviour of the current / existing trader which is not a material planning consideration.

4. Relevant Planning Policies

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

The Great Yarmouth Local Plan Part 2 (adopted 2021)

- Policy GSP1: Development Limits
- 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

5. Other Material Planning Considerations

National Planning Policy Framework (July 2021)

- 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

6. Planning Analysis

- 6.1. 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.
- 6.2. Section 70(2) of the Town and Country Planning Act 1990 (as amended) states: *In dealing with an application for planning permission the authority shall have regard to–*
- (a) the provisions of the development plan, so far as material to the application, (aza) a post-examination draft neighbourhood development plan, so far as material to the application,*
- (b) any local finance considerations, so far as material to the application, and*
- (c) any other material considerations.*

This is reiterated at paragraphs 2 and 47 of the National Planning Policy Framework (2021).

Main Issues

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 hot drinks concession unit is acceptable (Condition 8).

Assessment:

9. Principle of Development

- 9.1 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 2nd March 2022.

The Committee Report and meeting Minutes are available at the following link:

<https://great-yarmouth.cmis.uk.com/great-yarmouth/Meetings/tabid/70/ctl/ViewMeetingPublic/mid/397/Meeting/1503/Committee/137/Default.aspx>

- 9.2 This application seeks a variation of Condition 4 of 06/21/1018/CU to allow for one of the three concession units (and only one, for the sale of hot drinks) to trade between 1st March and 31st January each year (rather than for any 190 days between 1st March and 30th September), and variation of Condition 8 to change the trading hours (to start at 0730hrs instead of 0800hrs) in respect of just a hot drinks sales concession unit.
- 9.3 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 11th May 2022.

- 9.4 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).
- 9.5 The proposal was initially submitted to seek a permanent use year-round for the trading of the hot drinks concession unit. If this was permitted, it would contravene the description of the original permission because it would no longer be temporary, even though the remaining two concessions units would still be temporary. The applicant was advised of this and has amended their application to instead seek permission for the use for all months except February. In planning terms, whilst this is longer than the period originally allowed, it could still fall under the definition of being temporary due to not being permitted for 12 months of the year.
- 9.6 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 only the hot drink sales to benefit from much extended period of use (one of the three approved units) and as such still provides 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.

10. **Impact upon Amenity**

- 10.1 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.
- 10.2 Planning permission was 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.

- 10.3 The applicant is seeking to amend this condition to allow a hot drinks concession unit to trade throughout the majority of year (with the exception of each February) but ensure any hot food takeaway units would still be covered by the same requirements as the existing condition 4 above.

- 10.4 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.

- 10.5 The applicant seeks to amend this condition to allow just one hot drinks sales unit to commence at 0730hrs each day instead of 0800hrs; the remaining two concessions units would still need to adhere to the 0800hrs start time.
- 10.6 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.
- 10.7 At least three objections have been raised to this proposal on the grounds of dogs barking. However, the unit itself would not be the cause of the barking and permission cannot be refused on that basis. The area is a public area that attracts people with and without dogs. 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 0730hrs instead of 0800hrs is acceptable. It does not mean that the concession unit has to operate all of these hours, it would mean that there is the flexibility to operate for all or part of these hours.

- 10.8 In the strictest sense, the extant existing permission was granted to allow up to three retailing use units (which includes hot drinks sales), and up to three hot food takeaway units, but only up to a maximum of three units in total at any one time. In practice, the applicant has only ever considered use by one hot drink sales unit. It is noted that the application has proposed extended hours and duration of use for just one hot drink sales unit through this amended permission, so it is considered necessary and reasonable to allow the variation to apply to only one hot drinks sales unit and no more, and nor to other types of retailing units more generally. This is reflected in the conditions proposed by Officers.
- 10.9 As a result, the proposal would be considered acceptable in accordance with Policies R7 and A1 of the Great Yarmouth Local Plan Part 2 (2021).

11. **Whether or not the amended operating months for the hot drinks concession unit is acceptable**

- 11.1 This application was originally submitted with the request that the condition be varied to allow for year-round trading for the hot drinks concession unit. However, 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*".
- 11.2 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.
- 11.3 The applicant has confirmed that, on this basis, they are now seeking permission for the hot drinks concession unit to be allowed to also operate between 1st March and 31st January the following year, with no operations in February of any year. Whilst this is longer than the original permission allows, it could still be argued as falling under the temporary definition because it is not to operate throughout the whole year.
- 11.4 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.
- 11.5 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).

12. **Local Finance Considerations**

- 12.1 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.

13. The Planning Balance

- 13.1 The application submission sought to amend the trading hours and allow the permanent year-round trading of the hot drink concession unit, but, during the application process, the applicant was made aware that an application for full planning permission would be required because allowing year-round trading would alter the description of development, which a S73 application cannot do. The applicant is, therefore, seeking additional trading opportunities for only a single hot drink concession unit and only between 1st March and 31st January inclusive.
- 13.2 The proposal for extended trading hours for the hot drink sales units, commencing from 0730hrs instead of 0800hrs, is acceptable due to the small scale and generally benign nature of the operations of the one hot drinks sales concession unit proposed to be used by the applicant, to which the Environmental Protection team has raised no objection.
- 13.3 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.

14. Conclusion and Recommendation

- 14.1 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.
- 14.2 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).

RECOMMENDATION:

It is recommended that the application be APPROVED subject to following conditions:

Proposed Conditions

- 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).

The reason for the condition is:-

For the avoidance of doubt.

- 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.

The reason for the condition is:-

In order to ensure satisfactory off-street parking facilities are retained, and to minimise the impact up on the conservation area (No.17 Gorleston Seafront), and to minimise the impact on local residential amenity in accordance with Policies R7, A1 and E5 of the adopted Great Yarmouth Local Plan Part 2 (2021).

- 3) (A) This permission shall enure 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 190 days per year, and these uses shall not take place at any time between 30th September 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:
- 08:00 to 18:00 Monday to Saturday, between 01 March - 30th April inclusive;
 - 08:00 - 20:00 Monday to Saturday, between 01 May - 30th September inclusive; and,
 - 08:00 - 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 between 01st February and 28th February 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) At no time between 30th September and 31st January the following year shall the car park be used for the stationing of any more than a single concession unit selling hot drinks.
- (G) 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.

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 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).

- 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'.

The reason for the condition is :-

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).

- 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.

The reason for the condition is :-

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).

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

The reason for the condition is :-

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).

- 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.

The reason for the condition is :-

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).

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

The reason for the condition is :-

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).

- 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.

The reason for the condition is :-

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).

- 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.

The reason for the condition is :-

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).

- 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.

The reason for the condition is :-

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).

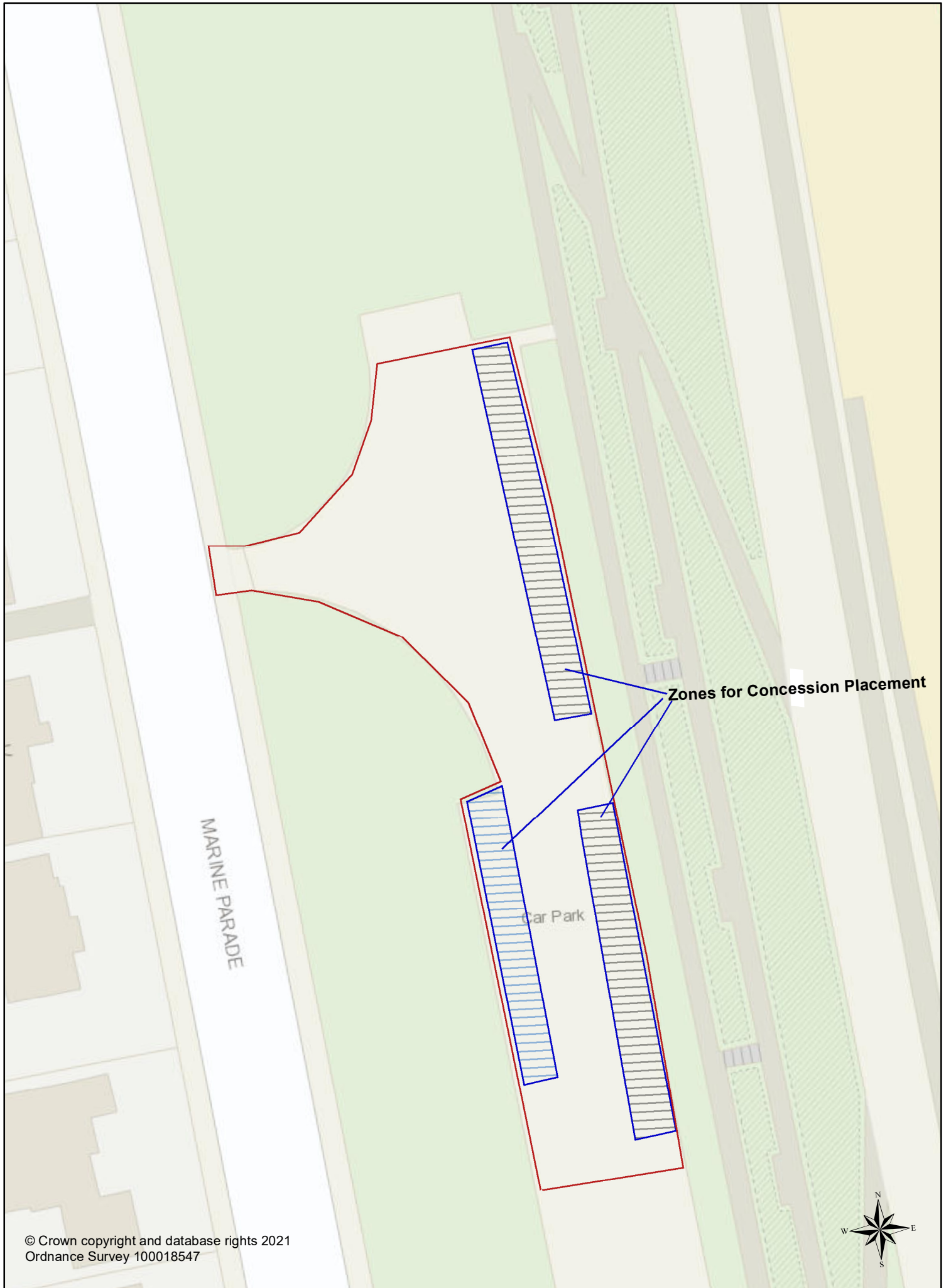
- 12) There shall be no use of amplified music or amplified loudspeaker/tannoy/audio systems associated with the use or as part of any mobile concession unit operating pursuant to this permission.

The reason for the condition is :-

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).

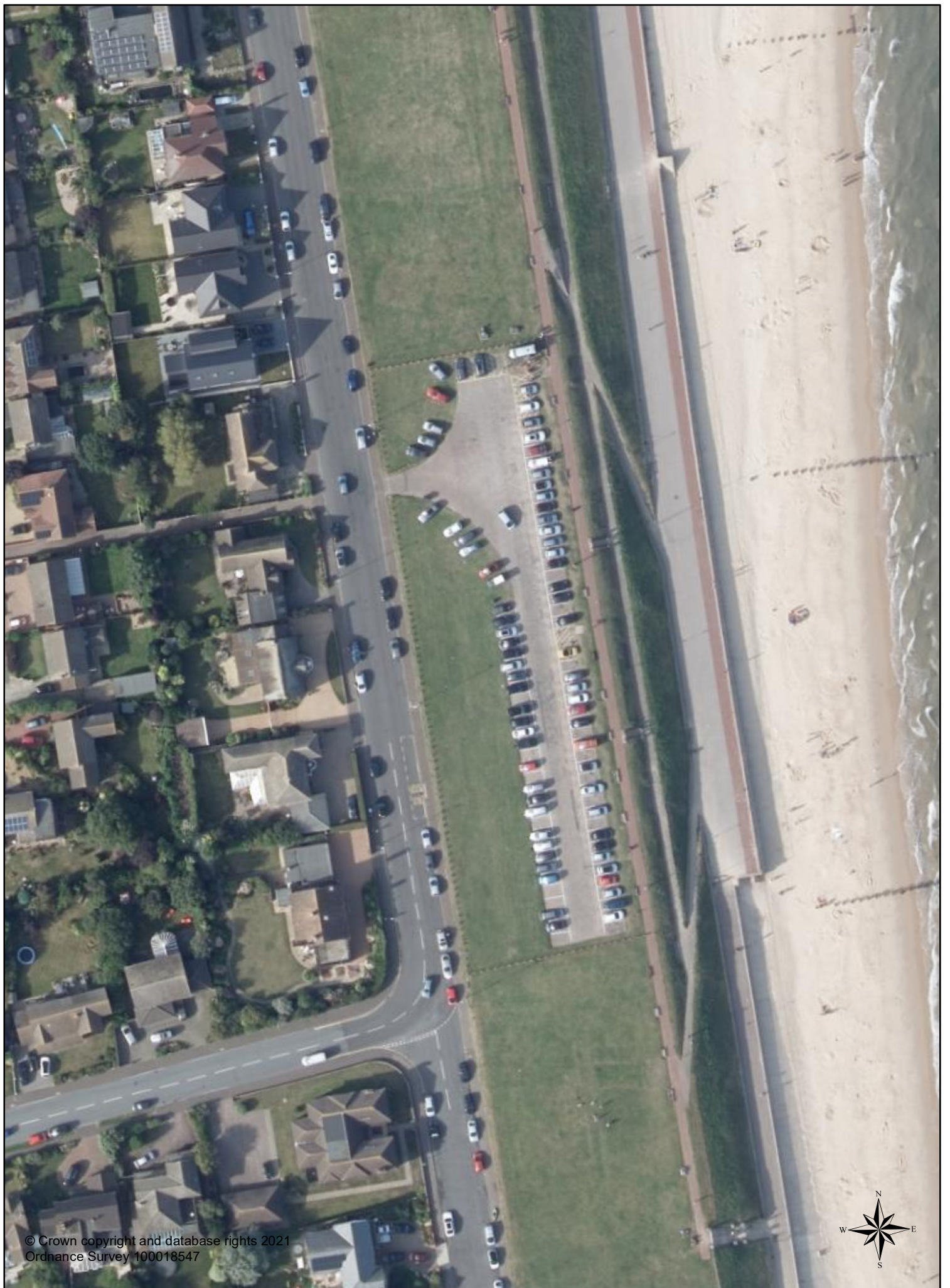
Appendices:

1. Site Location Plan and proposed Concession Zones.
2. Aerial Photo of the car park.



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