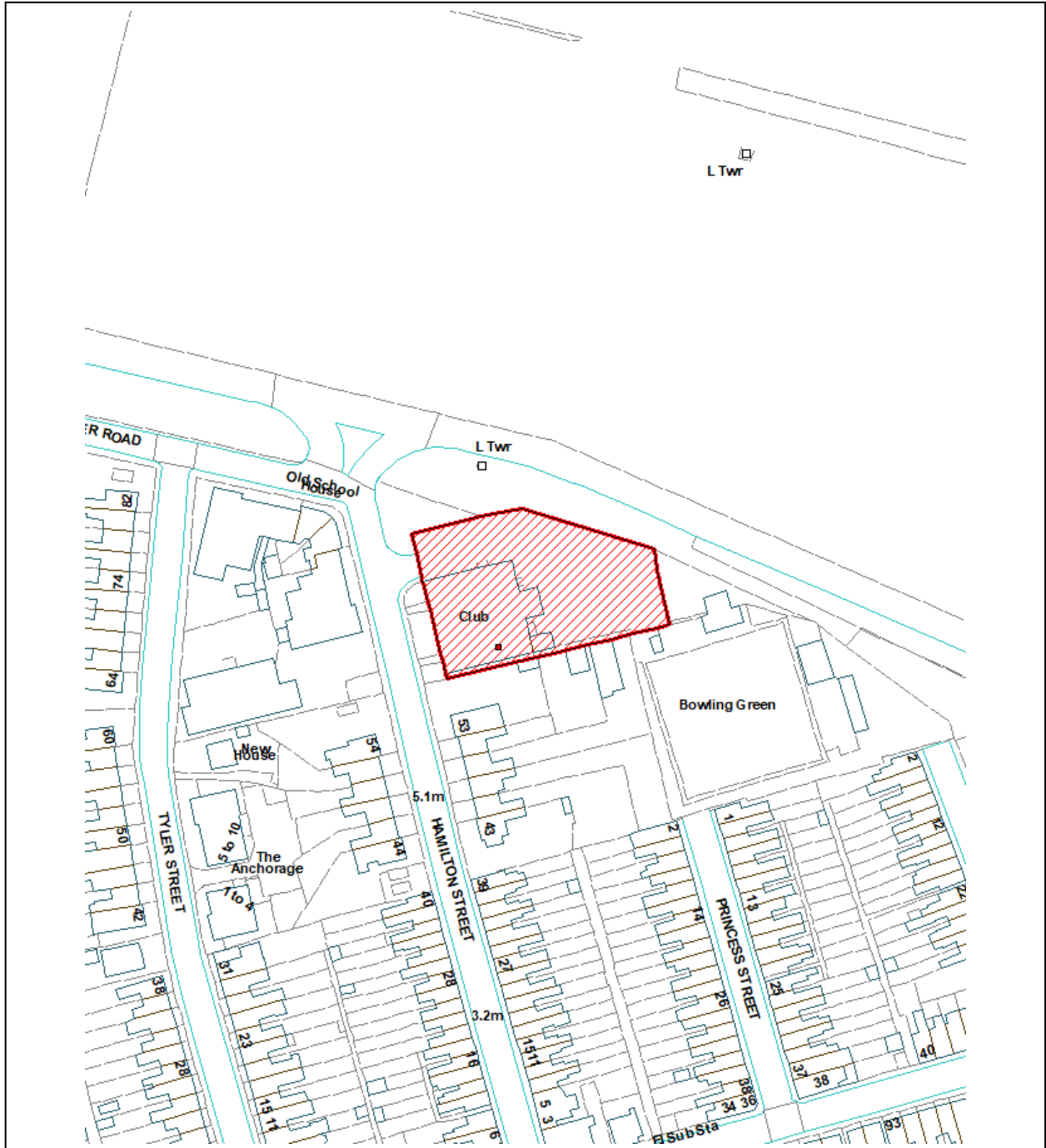


PLANNING COMMITTEE

16<sup>th</sup> January 2024

REPORT OF THE DIRECTOR OF PLANNING

**A.2 PLANNING APPLICATION – 23/01375/FUL – PARKESTON RAILWAY CLUB HAMILTON STREET PARKESTON HARWICH CO12 4PQ**



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<b>Application:</b>	23/01375/FUL	<b>Expiry Date:</b>	14th December 2023
<b>Case Officer:</b>	Alison Pope	<b>EOT Date:</b>	22nd January 2024
<b>Town/ Parish:</b>	Ramsey & Parkeston Parish Council		
<b>Applicant:</b>	Mr Les Nicol - North Essex Support Team		
<b>Address:</b>	Parkeston Railway Club Hamilton Street Parkeston Harwich CO12 4PQ		
<b>Development:</b>	Proposed permanent siting of 4 no. storage containers to rear of property to be used as storage.		

## 1. Executive Summary

The application seeks permission to change the use of part of the Parkeston Railway Club car park to site four containers for use by the charity NEST for storage purposes.

Volunteers will access the containers to facilitate deliveries and maintain stock during the day. Local residents/families in need will also be invited to the site by prior arrangement to collect specific items to assist their day to day living.

The proposal is not considered to be harmful to the character and appearance of the area, it will not result in any significant impact to neighbouring amenities, and it is acceptable in terms of highway impacts and flood risk.

### **Recommendation:** Approval

- 1) That the Head of Planning and Building Control be authorised to grant planning permission subject to the conditions as stated at paragraph 8.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 2) The informative notes as may be deemed necessary.

## 2. Planning Policy

The following Local and National Planning Policies are relevant to this planning application.

### **National:**

National Planning Policy Framework December 2023 ([NPPF](#))

National Planning Practice Guidance ([NPPG](#))

### **Local:**

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 (adopted January 2021)

SP1 Presumption in Favour of Sustainable Development

Tendring District Local Plan 2013-2033 and Beyond Section 2 (adopted January 2022)

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design  
PPL1 Development and Flood Risk

### **Status of the Local Plan**

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

### **Neighbourhood Plans**

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

[There is no applicable Neighbourhood Plan for this site.](#)

### **3. Relevant Planning History**

96/01258/FUL	Disabled persons access ramp	Approved	05.12.1996
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### **4. Consultations**

Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.

All consultation responses are available to view, in full (including all recommended conditions and informatives), on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

#### **ECC Highways Dept**

**06.11.2023**

The information that was submitted in association with the application has been fully considered by the Highway Authority and they have no comments to make.

#### **Environment Agency**

**09.11.2023**

The Environment Agency have considered the submitted information, do not object to the proposal, however they make the following comments for further consideration.

Flood Risk

Our maps show the site lies within tidal Flood Zone 3a defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for 4 storage containers, which is classified as a 'less vulnerable' development, as defined in Annex 3:Flood Vulnerability classification of the Planning Practice Guidance.

Therefore, to comply with national policy the application is required to pass the Sequential and (Exception Test) (s) and be supported by a site specific Flood Risk Assessment (FRA). We have reviewed this FRA below.

#### Review of Flood Risk Assessment (FRA)

To assist you in making an informed decision about the Flood Risk affecting this site, the key points to note from the submitted FRA, referenced Parkeston Railway Club, Hamilton Street, Parkeston, Harwich, CO12 4PQ and dated October 2023, are;

#### Actual Risk

- The site lies outside the flood extent for a 0.5% (1 in 200) annual probability event, including an allowance for climate change.
- The site does benefit from the presence of defences.
- The site level has not been provided.
- Compensatory storage is not required.
- A Flood Evacuation Plan has been proposed.

#### Residual Risk

- The site level has not been provided therefore flood depths in a breach event are unknown.

Our data shows that the site is not affected during the 0.5% (1 in 200) annual probability including climate change undefended flood event and is up to 5.4m AOD on site the 0.1% (1 in 1000) annual probability including climate change undefended flood event. You may wish to ask the applicant to provide a breach assessment for the development site in their FRA so that you can make a more informed decision on flood risk.

#### Additional Guidance

#### Safety of Inhabitants - Emergency Flood Plan

The local planning authorities should formally consider the emergency planning and rescue implications of new development in making their decisions.

#### Sequential Test / and Exception Tests

The requirement to apply the Sequential Test is set out in Paragraph 161 of the National Planning Policy Framework. The Exception Test is set out in paragraph 164. These tests are your responsibility and should be completed before the application is determined.

In addition to the above flood risk, the site may be within an area at risk of flooding from surface water, reservoirs, sewer and/or groundwater. We have not considered these risks in any detail, but you should ensure these risks are all considered fully before determining the application.

## 5. **Representations**

### Parish Council Consultation

Ramsey and Parkeston Parish Council object to this application due for the following reasons:

- Concerns about the community centre emergency vehicle access
- Concerns there will be a negative impact on urban design and street scene
- Concerns about the highways impact and other commercial vehicles accessing the containers
- Concerns about a negative impact on community activities
- Poor layout of containers, giving Concerns about safety, security, health and safety issues for access and egress whilst traversing.

### Public Consultation

15 letters of objection have been received and 151 people have signed a petition objecting to the proposal. The concerns raised can be summarised as follows:

- parking already a problem for residents/loss of car parking
- ugly unsightly shipping containers
- car park will look like an industrial site
- will cause congestion in the village
- old rusty container in the car park containing asbestos rubbish
- emergency access needed to Parkeston welfare park and community centre
- Large events held at the Parkeston Railway Club and the car park is essential as cars already
- overspill into residential streets
- One container already placed on the land on 8<sup>th</sup> September 2023
- Roads not suitable for large vehicles
- Containers a risk to children's safety

*Officer comments: The above points have been addressed within the report.*

Further concerns were raised related directly to the Parkeston welfare park and community Centre and they are summarised below:

- Parkeston welfare park and community centre have been told they cannot park in the Parkeston Railway Club car park anymore
- No other means of access to Parkeston welfare park and community centre other than via the Parkeston Railway Club car park
- New signs erected 29<sup>th</sup> September 2023 stating car park is for members and guests of the railway club
- Safety and security of residents accessing the community sports facility and luncheon club and other events
- space for turning the community bus around

*Officer comments: Space for parking and turning and access to the Parkeston welfare park and community centre is not a matter to be considered under this planning application. It is a private matter between the parties to the access agreement.*

One objection has been received from the part owner of the Parkeston Railway Club site and he makes the following comments:

- Parking in the village of Parkeston is already a nightmare. Any removal of parking spaces from the car park would have a further adverse knock-on to the already overstretched parking in the village on function nights in the club.
- Currently there is a derelict 20' container on the siting of the proposed additional containers.
- Ownership of the club was known to the Secretary & Treasurer so why was this altered within the planning application?

*Officer comments: The parking and derelict container have been addressed in the report. The ownership certificate of the planning application form has been updated to reflect the correct ownership details as registered with Land Registry.*

Other matters raised by the part owner that are not planning considerations relate to annual accounts, terms and contracts with NEST, no elections to PRC committee for several years, forklifts handling the containers would place an undue weight over the underground sewage pipes, deeds require additional structures to be approved by the BR Board and an agreement at the Parkeston Railway Club AGM for the lease of the Parkeston sports training ground and community centre to be taken over by Bill Davidson and that joint parking would continue as previously. PRC has recently reneged on the joint parking agreement, nor thought to include Parkeston Sports Training ground and Community Centre within the planning application.

One letter of representation has been received that suggests an emergency general meeting of the Parkeston Railway Club is held to resolve the matters raised by the owner. One letter of representation disputes the ownership and management of the Parkeston Railway Club.

2 letters of support have been received.

Harwich Cultural and Community Projects Ltd (HCCP) of George Street, Harwich have confirmed North Essex Support Team (NEST) and Harwich Hive (HH) are both Corporate Members of HCCP and that both organisations operate from their base in Harwich. Several other groups and charities also use the site and the lease runs till 2038. For the avoidance of and doubt HCCP can state categorically that neither NEST or Harwich Hive have been evicted or in any way compelled to leave.

*Officer comment: This is not a planning consideration in this case, there is no requirement to identify a need for the site.*

## **6. Assessment**

### Site Context

The application site, Parkeston Railway Club is located to the north of Parkeston village adjacent to the Parkeston Bypass and Parkeston Quay to the north and residential properties to the south. The site of Parkeston Railway Club consists of the brick built social club building to the west of the site and associated car parking areas to the north and east of the building.

Access to the Parkeston welfare park and community centre is located on the boundary on the eastern side of the application site.

### Proposal

The application seeks permission to change the use of part of the car park of the Parkeston Railway Club to site four containers for storage. One container has already been placed in the car park. An existing old container located at the eastern end of the site will be removed.

The applicant runs a registered charity called NEST (North Essex Support Team) which helps families and individuals in the local community. The four storage containers will be used to store furniture, household items such as crockery, cutlery, saucepans, kettles, toasters, lamps, irons and bedding, clothing and baby items.

Volunteers support the charity and it is the volunteers that will access the containers during the day.

## Principle of Development

Planning law requires that decisions on planning applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). The 'development plan' for Tendring comprises, the Tendring District Local Plan 2013-2033 and Beyond Section 1 adopted in January 2021 and the Tendring District Local Plan 2013-2033 and Beyond Section 2 adopted in January 2022.

Policy SPL2 of Section 2 of the Local Plan confirms that outside of Settlement Development Boundaries, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in the plan.

Harwich and Dovercourt (including Parkeston and part of Ramsey) is considered a strategic urban settlement. 'Strategic Urban settlements' have the larger populations and a wide range of existing infrastructure and facilities, making them the most sustainable locations for growth.

The application site falls outside of the settlement development boundary of Harwich and Dovercourt and does not fall to be considered as an employment site or other designation as defined in the Local Plan. Sites outside of settlement development boundaries are considered 'rural' or in the 'countryside'.

The application site in this case, is adjacent to the Parkeston Bypass and Parkeston Quay to the north and residential development to the south.

Paragraph 88a) states that decisions should enable the sustainable growth and expansion of all types of business in rural areas.

Paragraph 89 of the National Planning Policy Framework states that decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements. Going on to say that the use of sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

The principle of development is acceptable in this case as weight is attached to the established use of the site as a community facility well placed and easily accessible to the local towns of Parkeston, Harwich and Dovercourt.

## Scale, layout and appearance

The four containers will be sited towards the north eastern corner of the application site, adjacent to the boundary with the Parkeston Bypass and eastern boundary shared with the Parkeston welfare park and community centre.

An existing container which is old, overgrown with vegetation and in disrepair, sited in the north eastern corner will be removed. A condition will be imposed on the grant of planning permission to secure the removal of this container within 3 months from the date of the permission.

There would be limited views of the containers from Hamilton Road and from the bypass to the north. In combination, with the containers measuring 2.591 metres in height which is lower than existing structures on and around the site, boundary fencing with vegetation and the backdrop of the container port to the north. It is considered this would unlikely result in material wider visual harm or landscape impacts to warrant refusal.

In terms of appearance of the proposal, a container embodies a functional and utilitarian design and depending on number and height normally has a neutral appearance, characterised by a simple form and scale that allows containers to blend into various environments as referenced above. However, located within a car park, the visual appearance of these containers will affect a very localised semi public space. NPPF section 12 and including Para 31 provides the need to create high quality, beautiful and sustainable buildings and places as fundamental to what the planning and development process should achieve. Neutral containers are not generally considered beautiful and while these are not buildings, their contribution to semi public "place" is material in the planning balance. On this basis the planning balance must also consider the social role of the storage containers as proposed as sustainable planning must be a balance of social, economic and environment affects. The proposal seeks to be a supporting charity use that has social benefit, but planning must also consider that this may change in the lifetime of the development to be a more commercial use as storage in general is the described development. Both proposed use and potential use of storage actively would be positive set against the neutral appearance of the containers and lack of wider design harm identified.

In regards the position and layout of the proposed containers, third party submissions of the level of activity taking place at the Parkeston Railway Club and the Parkeston welfare park and community centre suggest that the car park benefits from natural/informal and formal surveillance thereby minimising the opportunities for crime, anti-social behaviour and misdirected play.

#### Highway Safety/Parking

The highway authority have no objections to the proposal. The site is served by a good surfaced access and considered suitable to serve the Parkeston Railway Club and the containers. It is possible for larger vehicles that need to access the site to do so via the Parkeston Bypass however this is not enforceable and it is also possible for them to gain access through the village.

The access and movements associated with the use of the containers has been set out in the submitted Statement of Use. Volunteers will access the site at 8.30am and then later in the day with occasional visitors to the site during the day to meet volunteers for particular needs. On a Thursday between 11am and 2pm the Baby Bank and Hygiene Bank is also operated from the containers and allows approximately 30 families to be provided with items they need.

The Essex Parking Standards confirms that the use of Parkston Railway Club requires 1 parking space per 25 square metres of floor space. The building is approximately 600 square metres and therefore 24 car parking spaces are necessary. Following the siting of the containers ample space will remain for car parking for at least 24 cars. In conclusion any refusal reason if based on the loss of parking would be unreasonable and difficult to defend in planning terms at appeal.

It is noted that Autoprint, the printing business located opposite the Parkeston Railway Club in Hamilton Street have offered car parking provision on their premises by way over an overspill car park. It is not possible to consider this additional car parking provision as part of the planning application. The site does not fall within the red line area of the application site and would therefore not be relevant to the development permitted. It would be possible to secure the parking provision at Autoprint only via a Section 106 legal agreement however as noted in the paragraph above, sufficient car parking provision will be retained at the Parkeston Railway Club and so this is not necessary.

From the information submitted, the proposed plans and following a site visit, it is apparent that the access to the Parkeston welfare park and community centre would not be obstructed by the containers and emergency access would continue to be available.



### Impact on Residential Amenity

There would be no unacceptable overshadowing, overbearing or loss of outlook impacts as a result of the siting of the containers on neighbouring properties given their low height and position.

It is considered that the potential impacts of the use of the containers in terms of noise and disturbance given the type of storage will not be significantly different to that of the existing site use. Taking into account the proposal as submitted in the Statement of Use it is considered reasonable and necessary to impose a condition on the grant of planning permission to restrict the hours of use to 8.00am to 17.00pm Monday to Saturday, so as to protect the amenity of neighbouring residential properties and avoids potential conflict with the existing use of the Parkeston Railway Club.

### Flood Risk

Paragraph 174 of the NPPF states that applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments (FRA)

Footnote 59 confirms that a site-specific FRA should be provided for all development in Flood Zones 2 and 3.

The planning practice guidance and footnote 60 of the NPPF also states that the Sequential and [Exception Tests](#) do not need to be applied to [minor developments](#) and changes of use, except for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site.

The proposal is for a change of use of part of the car park serving the Parkeston Railway Club to site four containers for storage within Flood Zones 2 and 3. The proposal does not involve a change of use to a caravan, camping or chalet site, or to a mobile home or park home site and therefore the sequential and exception tests are not required, however an FRA has been submitted.

The proposed use of the containers as storage is classed as 'less vulnerable' according to Annex 3: Flood risk vulnerability classification of the National Planning Policy Framework.

In Flood Zone 2 standing advice for vulnerable developments should be followed for developments (including change of use) that will have a vulnerability classification of 'less vulnerable' and is not a waste treatment site, mineral processing site, water treatment plant, or sewage treatment plant.

In Flood Zone 3, the Environment Agency should be consulted in the case of changes of use where the vulnerability classification will be 'more vulnerable' or 'highly vulnerable' or change from 'water compatible' to 'less vulnerable'.

The FRA is considered appropriate to the scale, nature and location of the development and proportionate to the degree of flood risk. The FRA confirms that the site benefits from flood defences.

The Environment Agency has confirmed that the site lies outside the flood extent for a 0.5% (1 in 200) annual probability event, including an allowance for climate change.

The FRA makes the following recommendations in preparation of a flood event:

- The containers should be anchored down to prevent movement/hazard under flood conditions
- A flood plan will provide guidance on emergency response procedures in the event of flooding to the site
- The Flood Warning Service operated by the Environment Agency should be used

A planning condition is necessary and reasonable on the grant of planning permission requiring the four containers to be anchored down to mitigate hazard during a flood.

The site does not fall within a critical drainage area and there is a no risk of surface water flooding on the site.

The principle of the proposed change of use for the siting of storage containers is acceptable from a flood risk perspective. It is considered that the proposed use which does not include any habitable space and will be used by a charity during the day time only is acceptable in this location.

## **7. Conclusion**

In conclusion, the assessment of the proposed change of use for the siting of storage containers at the Parkeston Railway Club site reflects several considerations.

Firstly, the principle of development aligns with planning laws, and the site's historical use as a community facility lends weight to its acceptability. The strategic urban settlement status of Harwich and Dovercourt further supports the proposed use.

The scale, layout, and appearance analysis indicate that the containers, positioned in the north-eastern corner of the site, are unlikely to cause significant visual harm or landscape impacts. While containers may not be considered aesthetically pleasing, their utilitarian design and the charitable purpose they serve contribute positively to the local community or economic benefit, strikes a balance in the planning context.

Concerns related to highway safety and parking are addressed by the absence of objections from the highway authority and the retention of sufficient parking spaces. The proposed hours of use and the availability of overspill parking from a nearby business further mitigate potential impacts.

The assessment of the impact on residential amenity highlights that the containers' low height and position would not lead to overshadowing or overbearing effects on neighbouring properties. Conditions on hours of use are recommended to protect residential amenity.

Regarding flood risk, the site-specific flood risk assessment demonstrates the appropriateness and proportionality of the proposed development.

In summary, the proposal for the change of use to site storage containers at the Parkeston Railway Club is deemed acceptable, considering its alignment with planning policies, positive community contributions, and the mitigation measures in place for various potential impacts.

## **8. Recommendation**

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

### **8.2 Conditions and Reasons**

1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

CONDITION: The development hereby permitted shall be begun not later the expiration of three years from the date of this permission.

REASON: 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.

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the permission becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk Enforcement Action proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

## 2 APPROVED PLANS & DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below and/or such other drawings/documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

The approved red line plan drawing is Drawing Number: 0132-A-001 Drawing Name: Location and Block Plan received 24 November 2023  
Drawing Number: 0132-A-001 Drawing Name: Proposed Outline Plan  
Drawing Number: 0132-A-100  
Flood Risk Assessment by Dr Robin Saunders CEng dated October 2023  
Statement of Use received 19 October 2023

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission. A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

### 3 ONGOING REQUIREMENT IMPOSED - RESTRICTION ON OPERATION TIMES

CONDITION: Access to all containers and operational use shall only operate between the hours of 8.00am and 5.00pm Monday to Saturday. There shall be no access on Sundays and Bank Holidays. There shall be no deliveries to the use arranged for outside of these approved hours.

REASON: To enable the Local Planning Authority to retain control over the development in the interests of residential amenity within close proximity.

NOTE/S FOR CONDITION:

1) This condition shall engage and restricts the operation of the development from the first commencement of the use. This condition is imposed to ensure the development avoid unreasonable impact on the residential amenity of neighbouring dwellings, especially given the location of the development with considerations to the prevailing character and amenity currently enjoyed in this location. Without the imposing of this condition, the development would be refused due to the risk of harm and this condition is considered necessary, enforceable and reasonable in all other respects. This condition as detailed will apply to the development at all times unless varied or removed legally.

2) If the development operates outside of the hours stated this may result in unlawful development/use at risk of Enforcement Action. You are encouraged to discuss any concerns with this condition with the Local Planning Authority.

### 4 ONGOING REQUIREMENT IMPOSED - RESTRICTION ON EXTERNAL OPEN-AIR STORAGE

CONDITION: No goods, products, raw materials, scrap material or other materials of any other sort shall be stored in the open air outside the confines of the containers included in the approved red line site plan related to this permission, except pursuant to the grant of separate planning permission on an application made in that regard.

REASON: The external storage of these items would be harmful to the local amenity, character and appearance of the area.

NOTE/S FOR CONDITION:

This condition shall engage and restricts the operation of the development from the first commencement of the use and/or operation hereby approved. This condition is imposed to ensure the development avoid unreasonable impact on the residential amenity of neighbouring dwellings, especially given the location of the development with considerations to the prevailing character and amenity currently enjoyed in this location. Without the imposing of this condition, the development would be refused due to the risk of harm and this condition is considered necessary, enforceable and reasonable in all other respects. This condition as detailed will apply to the development at all times unless varied or removed legally.

### 5 COMPLIANCE REQUIRED: FLOOD RISK

CONDITION: Within one month of the date of the permission for the use hereby approved, the existing container shall be anchored to the ground in accordance with the recommendation made in the Flood Risk Assessment.

REASON: To provide additional safety measures in the event of a flood in the interest of public safety.

6 COMPLIANCE: REMOVAL OF CONTAINER

CONDITION: Within 3 months of the date of the permission for the use hereby approved, the old container shown on Drawing Number: 0132-A-001 Drawing Name: Proposed Outline Plan shown as a dotted red line shall be removed from the site.

REASON: To satisfactorily protect the character and appearance of the area.

7 COMPLIANCE REQUIRED: FURTHER CONTAINERS

CONDITION: The siting of the three further containers on the application site for the use hereby approved shall not commence until the old container shown on Drawing Number: 0132-A-001 Drawing Name: Proposed Outline Plan shown as a dotted red line has been removed from the site.

REASON: To satisfactorily protect the character and appearance of the area.

8 COMPLIANCE REQUIRED: FLOOD RISK

CONDITION: Upon siting of the further three containers for the use hereby approved, they shall be immediately anchored to the ground in accordance with the recommendation made in the Flood Risk Assessment.

REASON: To provide additional safety measures in the event of a flood in the interest of public safety.

9 COMPLIANCE REQUIRED – CONTAINERS QUANTUM AND SITING

CONDITION: For the avoidance of doubt there shall be no more than 4 containers placed on the site at any one time and such containers shall only be sited in the locations outlined on approved Drawing Number: 0132-A-001 Drawing Name: Proposed Outline Plan.

REASON: In the interests of visual and residential amenity and to ensure sufficient parking provision is retained.

10 SPECIFIC RESTRICTION OF DEVELOPMENT - ILLUMINATION RESTRICTION

CONDITION: There shall be no means of external illumination installed and/or operated on/at the site except pursuant to the prior grant of a planning permission on an application made in that regard.

REASON: In the interests of amenity to reduce the impact of night time illumination on the character of the area and in the interests of residential amenity.

8.3 Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

### Highways Informatives

All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

## **9. Additional Considerations**

### Public Sector Equality Duty (PSED)

- 9.1 In making this recommendation/decision regard must be had to the public sector equality duty (PSED) under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions that in summary include
- A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
  - B. Advance equality of opportunity between people who share a protected characteristic\* (See Table) and those who do not;
  - C. Foster good relations between people who share a protected characteristic\* and those who do not, including tackling prejudice and promoting understanding.
- 9.2 It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does

not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.

9.3 In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic\* adversely. The PSED has been duly considered and given the necessary regard, as expounded below

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

The proposal overall shall have a neutral impact.

Consultations undertaken with the affected communities or groups have not been required in this case.

No mitigation measures required.

#### Human Rights

9.4 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.

9.5 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).

- 9.6 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

#### Finance Implications

- 9.7 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.

### **10. Background Papers**

- 10.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.