

DELEGATED DECISION OFFICER REPORT

AUTHORISATION		INITIALS	DATE
Planning Officer recommendation:		ER	04/10/2024
EIA Development - Notify Planning Casework Unit of Decision:	NO		
Team Leader authorisation / sign off:		ML	11/10/2024
Assistant Planner final checks and despatch:		ER	11/10/2024

Application: 24/01131/FUL **Town / Parish:** Harwich Town Council

Applicant: Ms Hannah Johns - Wheels For All

Address: Tennis Courts Lower Marine Parade Dovercourt

Development: Planning Application - Proposed 20ft green storage container onto the front tennis court.

1. Town / Parish Council

Harwich Town Council

Harwich Town Council makes no objection to this application as long as the planning authority is convinced that there is a safe access/egress for all users.

2. Consultation Responses

ECC Highways Dept
25.09.2024

The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study with the observations below based on submitted material and google earth image.

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority.

Informative:

i. There shall be no discharge of surface water onto the Highway.

ii. 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

Environmental Protection
03.10.2024

With reference to the above application, I can advise the EP Team have no adverse comments to make.

3. Planning History

06/01783/FUL Positioning of temporary clubhouse on court No.2 and erection of chain link fence. Approved 15.03.2007

24/01131/FUL Planning Application - Proposed 20ft green storage container onto the front tennis court. Current

4. 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 Local Plan 2013-33 and Beyond (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 made and the Minerals and Waste Local Plans adopted by Essex County Council.

5. 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>

Harwich does not benefit from a emerging or adopted neighbourhood plan.

6. Relevant Policies / Government Guidance

National:

National Planning Policy Framework 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

SP7 Place Shaping Principles

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

SPL3 Sustainable Design

PPL1 Development and Flood Risk

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

7. Officer Appraisal (including Site Description and Proposal)

Application Site

The application site comprises of a commercial premises known as "The Waterfront" within Lower Marine Parade. The building is set back from the highway with a public car park to the front and vehicular access to the site. The site also includes a number of tennis courts.

Proposal

This application seeks planning permission for a proposed 20ft green storage container onto the front tennis court.

The proposal will comprise of a shipping container made of Corten Steel (weathering steel), painted Green. One wall facing the car park will include a green living wall. The container will be used for storage of adaptive cyclist equipment.

The applicant has confirmed that the land is owned by The Waterfront premises and that the container will not affect the use and accessibility of the tennis courts.

Assesment

Visual Impact

Paragraph 135 of the NPPF (2023) requires that developments are visually attractive as a result of good architecture, are sympathetic to local character, and establish or maintain a strong sense of place. Policy SP7 of the 2013-33 Local Plan seeks high standards of urban and architectural design which responds positively to local character and context, and to protect the district's landscape and the quality of existing places and their environs.

The proposal will be publicly visible; however, it will be positioned well within the site and behind other neighbouring buildings preventing prominent and harmful views onto "Lower Marine Parade."

The container will be visible from the public car park and placed on a piece of land close to the tennis courts. Whilst views will be achievable here it will be set slightly back from the car park and the host building preventing it from being seen in context and affecting their appearance within Lower Marine Parade.

The north east elevation drawing confirms that this will comprise of a "living wall" to soften the impact of the proposal onto the public car park. This will reduce the prominence of the proposal from the car park and allow it to appear more visually appeasing. There have been no further details provided of the living wall and therefore a condition will be imposed requesting this to allow the LPA to ensure they are appropriate.

The overall size and siting of the proposed container is appropriate to the site and will not impact the existing users of the site.

The proposal is therefore considered appropriate to the site and would not result in a harmful impact to the character/ appearance of the existing site or streetscene.

Highway Safety

Paragraph 114 of the National Planning Policy Framework 2023 seeks to ensure that safe and suitable access to a development site can be achieved for all users, whilst Paragraph 104 requires that streets, parking and other transport considerations are integral to the design of schemes and contribute to making high quality places.

Adopted Policy CP1 (Sustainable Transport and Accessibility) of the Tendring District Local Plan 2013-2033 states that planning permission will only be granted if amongst other things; access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate, and the design and layout of the development provides safe and convenient access for people.

The proposal will be set away from the car park and will not result in a loss of any spaces.

The container will also be located significantly away from the existing access preventing an impact to the users accessing/ egressing the site.

The ECC Highways team have been consulted and have provided no objections.

The proposal will therefore not result in a harmful impact to highway safety.

Flood Risk

The site is located within National Flood Zone 2 and 3.

The proposal will result in the provision of a container used for the storage of cyclist equipment only.

A flood risk assessment has been provided to support the application with suitable information on the mitigation measures which will be used to reduce an impact in this regard.

A condition will also be imposed upon the permission to request that the container is anchored to the ground so that in the event of flooding it would not become dislodged and cause damage to surrounding buildings etc.

The proposal will therefore not result in a harmful impact in terms of flood risk.

Impact to Neighbours

Paragraph 135 of the National Planning Policy Framework (2023) confirms planning policies and decisions should create places that are safe, inclusive and accessible and which promote health and well being, with a high standard of amenity for existing and future users.

Policy SP7 of Section 1 of the 2013-33 Local Plan requires that the amenity of existing residents is protected. Section 2 Policy SPL 3 (Part C) seeks to ensure that development will not have a materially damaging impact on the privacy, daylight or other amenities of occupiers of nearby properties.

The proposal is of a smallscale nature which will be sited sufficiently away from shared boundaries preventing a significant loss of amenities to neighbouring sites.

Ecology and Biodiversity

General duty on all authorities

The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.

This development is subject to the general duty outlined above. The proposal shows a new living wall to be displayed upon one side. Whilst details of this will be secured by a planning condition the use of planting here would enhance the biodiversity connected with the development.

Therefore, the development on balance, with consideration of the impact of the development and baseline situation on site, is considered likely to conserve and enhance biodiversity interests.

Biodiversity net gain

Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. This excludes applications for types of application which are below the threshold i.e. does not impact a priority habitat and impacts less than 25 sq.m of habitat, or 5m of linear habitats such as hedgerow). The proposal will be sited on an area of existing hardstanding and therefore this proposal is not therefore applicable for Biodiversity Net Gain.

Protected Species

In accordance with Natural England's standing advice the proposed development site and surrounding habitat have been assessed for potential impacts on protected species. The proposal will be sited on an area of hardstanding and therefore it is considered that it is unlikely to adversely impact upon protected species or habitats.

Conclusion

In accordance with the overarching duty outlined above, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

Other Considerations

Harwich Town Council makes no objection to this application as long as the planning authority is convinced that there is a safe access/egress for all users.

Officer Response - The proposal is sited away from the access of the site allowing safe access and egress for all vehicles.

There have been no letters of representation received.

Environmental Protection have not objected to the application.

Conclusion

The proposal is therefore considered to be compliant with national and local policy as assessed in the above report. In the absence of material harm resulting from the proposed development the application is recommended for approval.

8. Recommendation

Approval - Full

9. Conditions

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.

SITE PLAN - REC'D 26/07/24

BLOCK PLAN - REC'D 03.09.24
PROPOSED FLOOR PLANS AND ELEVATIONS - 03/09/2024
SITE LAYOUT PLAN - REC'D 03.09.24
FLOOD RISK ASSESSMENT - REC'D 03.09.24

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 LIVING WALL - ACTION REQUIRED

CONDITION: Prior to the installation of the proposed storage container, full details including the species and specifications of the proposed living wall to the proposed northeast elevation shall be submitted and approved in writing by the Local Planning Authority. The living wall shall be installed in full and as approved.

Any element within the approved landscaping details (both proposed planting and existing) which die, are removed, seriously damaged or seriously diseased, within a period of 10 years of being planted, or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and same species unless otherwise agreed in writing by the Local Planning Authority.

REASON: The proposal is located in a public area and therefore these details are required to ensure suitable screening of the container is provided to limit its impact onto public areas.

4. CONTAINER COLOUR - COMPLIANCE

CONDITION: The hereby approved container shall be painted in a green finish as per the information within the application, as retained in this colour thereafter.

REASON: To protect the visual amenity of the area.

5. COMPLIANCE REQUIRED: FLOOD RISK

CONDITION: Within one month of the date of installation of the hereby approved development, the proposed container shall be anchored to the ground.

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

10. **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 Informative

- i. There shall be no discharge of surface water onto the Highway.
- ii. 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

11. **Equality Impact Assessment**

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.

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.

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

12. Notification of Decision

Are there any letters to be sent to applicant / agent with the decision? If so please specify:		NO
Are there any third parties to be informed of the decision? If so, please specify:		NO
Has there been a declaration of interest made on this application?		NO
No Declarations Of Interest Made		