

Officer Report

Application Number:	P/FUL/2024/00504
Webpage:	https://planning.dorsetcouncil.gov.uk/
Site address:	Weymouth Rugby Club Monmouth Avenue Weymouth DT3 5HZ
Proposal:	Change of use of a sector of the Rugby club car park to a cafe with seating area.
Applicant name:	Mrs Alison Hunter
Case Officer:	Thomas Whild
Ward Member(s):	Cllr Barrow and Cllr Gray

1.0 In accordance with the Council's Constitution the application is being considered by the committee as the Council is the freehold land owner.

2.0 Summary of recommendation: Grant planning permission subject to the conditions set out at the end of this report.

3.0 Reason for the recommendation:

- The use would not undermine the commercial viability of other facilities and would complement the Lodmoor Trail and Country Park.
- The relocation of the kiosk closer to the rugby club and reorientation would address issues of noise and odour arising from the use.
- The proposal would not have an unacceptable impact on highways.
- The proposal would comply with relevant policies of the Local Plan and there are no material considerations which would justify refusal of planning permission.

4.0 Key planning issues

Issue	Conclusion
Principle of development	Although outside of a defined development boundary the use would not undermine the commercial viability of town centre locations and would complement the Lodmoor Trail and Country Park.
Character and appearance within the landscape setting	The kiosk is relatively low key and clad in natural materials. It would not be overly prominent in the landscape.

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Impact upon amenity	The relocation of the kiosk and reorientation allows the issues of noise which led to the previous refusal of planning permission to be overcome and result in an acceptable impact upon amenity. Issues of odour and access to toilets were not upheld in the previously dismissed appeal but would nevertheless be improved as a result of the proposal.
Access and parking	Customers would have access to the large car park serving the rugby club. It is not considered that the proposals would result in an unacceptable impact on highways.
Flood risk	A small part of the site is affected by tidal flood risk. However, the structure is considered to be inherently flood resilient.

5.0 Description of Site

- 5.1 The application site comprises a rectangular parcel of land which forms part of the Weymouth and Portland Rugby Club and its associated car park. The planning application boundary encompasses the existing club house and car park of the Rugby Club. The development itself relates to a smaller area at the eastern end of the Rugby Club's car park, adjacent to the clubhouse.
- 5.2 The site is located to the east of the established urban edge of Weymouth, located between the built area of Monmouth Road (to the south west) and the Lodmoor Country Park (to the east) with playing fields and overflow parking to the north. The site is located outside of the defined development boundary. The main vehicular access to the site is via Monmouth Road, to the south west, and there is a pedestrian/cycle route along the western boundary of the site.

6.0 Description of Development

- 6.1 The application seeks planning consent for the siting of a kiosk which is used for the preparation and sale of hot food and drink, together with associated seating area and a rear service area. The kiosk is currently located at the western end of the car park but following the refusal of a retrospective application for its siting in that location and the subsequent dismissal of an appeal this proposal seeks to relocate the kiosk further to the east, to a location closer to the Rugby Club building and reorientate it so that it faces south.
- 6.2 The kiosk is a converted shipping container which has been fitted out internally with kitchen equipment, has a serving hatch in one side and which has been externally clad in timber. It measures 6m wide by 2.5m tall and 2.5m depth. A service area is proposed to be created to the rear of the kiosk, defined by fencing. A seating area

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is proposed to be established in front of the kiosk with timber picnic tables for customers. The seating area will be enclosed by a 1.2m post and rail fence. An existing seating area on the western end of the rugby club building will also be extended to provide additional outdoor seating.

7.0 Relevant Planning History

P/FUL/2022/03477 Decision: REF Decision Date: 23/02/2023

Retain change of use from Club parking to Cafe' area, placing of a steel box container and fencing. (Appeal dismissed).

8.0 List of Constraints

Land Outside DDBs

Landscape Character; Valley Pasture; Lower Wey and Lorton Valley

Legal Agreements S106

SGN - High pressure gas pipeline 1km or less from Regional High Pressure Pipelines (>7 bar); - Distance: 811.89

Risk of Surface Water Flooding Extent 1 in 100

Risk of Surface Water Flooding Extent 1 in 1000

Natural England Designation - RAMSAR: Chesil Beach & the Fleet (UK11012); - Distance: 4333.5

Special Area of Conservation (SAC) (5km buffer): Chesil & The Fleet (UK0017076); - Distance: 4231.46

Flood Zone 3

Flood Zone 2

Historic Landfill Site: Lodmoor

Contaminated Land

9.0 Consultations

9.1 All consultee responses can be viewed in full on the website.

Consultees

- 1. Dorset Police Architectural Liaison Officer** – No comments received.
- 2. Rights of Way Officer** – No comments received.

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3. **Highways** – The proposal is served from Monmouth avenue; however, the site access adjoins an adopted public highway footpath and on road signed cycle way. The applicant will retain existing capacity on site for turning and parking. The Highway Authority considers that the proposal does not present a material harm to the transport network or to highway safety and consequently has NO OBJECTION.
4. **Dorset Waste Team** – No comments received.
5. **Env. Services – Protection** – No comments received (N.B. Comments on previously refused application from Environmental Protection raised no objection).
6. **Weymouth Town Council** – The application has been considered by the Weymouth Town Council Planning and Licencing Committee, who have no objection to the proposals.
7. **Ramblers Association** – No comments received.
8. **Public Health Dorset** – No comments received.
9. **Env. Services - Food, Safety & Port Health** – No comments received.
10. **Asset & Property** – No comments received.
11. **Radipole Ward Member 1** – No comments received.
12. **Radipole Ward Member 2** – No comments received.

Representations received

Summary of comments of objections: No objections have been received.

Summary of comments of support – 8 received:

- The Caddy Shack was very popular and visited by many sections of the community. With emphasis being placed on mental health and exercise the proximity to Lodmoor Country Park means this would be a real asset to the town and small independent businesses should be encouraged.
- It was a welcome refuelling stop for locals, walkers, dog walkers and a popular meeting place which was sadly missed when forced to close.
- It complements the foot and cycle path.
- The reasoning behind the previous refusal is weak.

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- The new location has overcome the points of objection to the previous application and now wish to see the business succeed.

In addition to those comments submitted in support of the application some additional comments have been made which raise the following points (3 representations with comments have been received):

- The press and social media reports included false statements and implications which have misrepresented previous concerns.
- Whilst not objecting, wish to see more restrictions on opening hours as suggested hours are long for a business within a residential area especially as many customers drive to the café.

10.0 Duties

- 10.1 s38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications must be in accordance with the development plan unless material circumstances indicate otherwise.

11.0 Relevant Policies

Development Plan

- 10.1 The following policies of the West Dorset Weymouth and Portland Local Plan 2015 are considered to be relevant to this proposal:
- INT1 Presumption in favour of Sustainable Development
 - ENV1 Landscape, seascape & sites of other geological interest
 - ENV2 Wildlife and habitats
 - ENV5 Flood risk
 - ENV9 Pollution and contaminated land
 - ENV10 The landscape and townscape setting
 - ENV 12 The design and positioning of buildings
 - ENV 16 Amenity
 - SUS2 Distribution of development
 - COM2 New and improved local community buildings and structures

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- COM7 Creating a safe & efficient transport network

Material Considerations

Emerging Local Plans:

10.2 Paragraph 48 of the NPPF provides that local planning authorities may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant plan policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan are to the policies of the NPPF, the greater the weight that may be given).

10.3 **The Dorset Council Local Plan** Options Consultation took place between January and March 2021. Being at a very early stage of preparation, the relevant policies in the Draft Dorset Council Local Plan should be accorded very limited weight in decision making. However, the production of the Draft Local Plan has significant implications for the assessment of housing land supply.

10.4 The emerging Local Plan has reached Regulation 18 of the (Town and Country Planning (Local Planning) (England) Regulations 2012 stage and includes a policies map and proposed allocations towards meeting housing need. Therefore, as detailed under Paragraph 226 of the NPPF (December 2023), for decision-making purposes only, the Council is only required to identify a minimum of 4 years' worth of deliverable housing sites.

National Planning Policy Framework

10.5 Paragraph 11 sets out the presumption in favour of sustainable development. Development plan proposals that accord with the development plan should be approved without delay. Where the development plan is absent, silent or relevant policies are out-of-date then permission should be granted unless any adverse impacts of approval would significantly and demonstrably outweigh the benefits when assessed against the NPPF or specific policies in the NPPF indicate development should be restricted.

10.6 Relevant NPPF sections include:

- Section 4. Decision taking: Para 38 – Local planning authorities should approach decisions on proposed development in a positive and creative

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way. They should use the full range of planning tools available...and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

- Section 12 'Achieving well designed places indicates that all development to be of a high quality in design, and the relationship and visual impact of it to be compatible with the surroundings. In particular, and amongst other things, Paragraphs 126 – 136 advise that:

The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

- Section 14 'Meeting the challenges of climate change, flooding and coastal change'
- Section 15 'Conserving and Enhancing the Natural Environment'- In Areas of Outstanding Natural Beauty great weight should be given to conserving and enhancing the landscape and scenic beauty (para 176). Decisions in Heritage Coast areas should be consistent with the special character of the area and the importance of its conservation (para 178). Paragraphs 179-182 set out how biodiversity is to be protected and encourage net gains for biodiversity.

Other material considerations

- Supplementary Planning Documents/Guidance-
- Weymouth & Portland Urban Design (2002)
- Landscape Character Assessment (Weymouth & Portland)
- Dorset Council Interim Guidance and Position Statement Appendix B: Adopted Local Plan policies and objectives relating to climate change, renewable energy, and sustainable design and construction. December 2023.

12.0 Human rights

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- Article 6 – Right to a fair trial.
- Article 8 – Right to respect for private and family life and home.
- The first protocol of Article 1 Protection of property.

12.1 This recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

13.0 Public Sector Equalities Duty

13.1 As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

13.2 Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove or minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the Public Sector Equalities Duty. The site includes measures to provide access for people with mobility impairments and pushing buggies. The proposals are not considered to have any additional implications for persons with protected characteristics.

14.0 Financial benefits

What	Amount / value
Material Considerations	
Job creation	1x full time and 4x part time employees
Non Material Considerations	
Business rates	Unknown

15.0 Environmental Implications

15.1 There will be additional CO₂ emissions as a result of the use and operation of the site, and from staff and customers travelling to the site.

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16.0 Planning Assessment

Principle of development

- 16.1 The site is located outside of the defined development boundary of Weymouth and is therefore in a location where Policy SUS2 of the West Dorset, Weymouth and Portland Local Plan (2015) indicates that development should be strictly controlled, having regard to the need for the protection of the countryside and environmental constraints. Policy SUS2 does however allow for certain forms of development (at point iii) including new employment, tourism, educational/training and recreational or leisure related development.
- 16.2 The scheme is also supported in principle by policy COM2 of the West Dorset, Weymouth & Portland Local Plan (2015) which seeks to support new community infrastructure with a café being one of the specified uses. Considering the criteria of policy COM2, the proposal is well located and accessible to its main catchment and does not generate significant additional single purpose trips by private transport and the proposal does not undermine the commercial viability of nearby community facilities.
- 16.3 The Café has previously operated from a part of the rugby club car park further to the west before the refusal of planning permission and subsequent dismissed appeal. In that time no concerns have been raised in regard to impact on commercial viability elsewhere. The location is alongside the Lodmoor trail meaning that a lot of the trade would be expected to come from those utilising that route or those using the rugby club. Weymouth has a lot to offer in infrastructure terms and any purposeful trips by car to the site are likely to be combined with some other activity.
- 16.4 The structure is to be relocated from its original, unauthorised, location at the western end of the rugby club's car park so would not result in an overall loss of parking capacity – the original location of the structure was not previously used actively for parking so has not resulted in a loss of parking capacity. The use of the land for the siting of a café is considered to be complementary to the Rugby club and their existing use of the land, which will be retained. It is considered that not only does the café bring an enhancement as a community facility but enhances the larger community sports venue on which it is situated. As such the scheme is supported in principle by virtue of policies COM2 and SUS2 of the West Dorset, Weymouth and Portland Local Plan 2015.

Character and appearance within the landscape setting

- 16.5 The structure is comprised of a shipping container which has been clad in timber. A service area will be formed from close boarded fencing enclosing the rear of the structure, while the outdoor seating areas will be defined by post and rail fencing

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immediately in front of the kiosk and by sleepers around the seating area to the east.

- 16.6 The structure will be a low key addition to the existing car park area which maintains a functional appearance. It will be discreetly located close to the established rugby club building and would not therefore be a particularly prominent feature. The impacts of the structure itself are wholly reversible, given that it is a shipping container, while the materials used in the cladding and fencing are natural and considered to be appropriate to the setting without appearing overly utilitarian.
- 16.7 Overall, the structure is visually pleasing and given its limited scale, cannot be seen significantly in wider views when viewed from the Lodmoor Trail to the north & south. Any views from the east and west are largely obscured by existing built form (the Rugby Club to the east and Monmouth Avenue etc. to the west/south-west). As such, the scheme has an acceptable impact on visual amenity within the landscape setting and complies with policies ENV1, ENV10 and ENV12 of the West Dorset, Weymouth & Portland Local Plan (2015).

Impact upon amenity

- 16.8 The previous application was refused due to the impact of the kiosk on the amenity of neighbours, from noise, odour and from the lack of toilet facilities. These matters were significant points of objection for neighbouring residents who complained of the noise and odour from the use of the building as well as people, assumed to be customers of the kiosk, urinating against their fence.
- 16.9 In determining the subsequent appeal, the inspector found that the kiosk did not give rise to unacceptable levels of odour and accepted that the availability of toilet facilities in the club itself addressed that aspect of the refusal. However, the appeal was dismissed on the basis of the noise impacts owing to the close proximity of the site to neighbouring properties, and the lack of containment for the external seating areas.
- 16.10 In view of the inspectors' conclusions in respect of toilets and odour from cooking it is reasonable to conclude that the proposals would be acceptable in these regards. The relocation of the kiosk further to the east would also make the use of the Rugby Club's toilets more convenient for patrons.
- 16.11 It is noted that, when considering the previous application, members of the planning committee discussed the prospect of relocating and reorienting the kiosk to face south and be closer to the club house as a way of addressing the issues and allowing the application to be supported. However, the application was determined as submitted and was refused. The current proposal essentially addresses and

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accepts the suggestions made during the previous meeting of the planning committee where the previous application was considered.

- 16.12 The kiosk would be oriented so that the serving hatch faces south, while the access would face east, towards the club house. Therefore, any noise arising from within the kiosk would be directed generally southwards across the rugby field, as opposed to the previous arrangement where any noise would have been directed towards the neighbouring houses. Although the proposals would not contain any additional physical measures to contain noise from customers in the external seating area, the proposal would move the kiosk approximately 50m further into the site, further from the neighbouring properties, achieving a separation of approximately 80m to neighbouring properties. At this distance it is not considered that noise arising from customers would represent a significant impact on neighbouring amenity. It is also noted that, unlike the previous application, no objections have been received and objectors from the previous application have commented to confirm that they are content with the new location.
- 16.13 The applicant's details have listed opening hours which indicate daytime opening only between the hours of 9am and 6pm. Although the relocation of the kiosk largely addresses the previous reasons for refusal it is considered appropriate to limit the opening hours by condition to prevent opening unsociably early or late. It is therefore considered that the proposal would not have an unacceptable impact upon the amenity of neighbours and would comply with policy ENV16 of the West Dorset Weymouth and Portland Local Plan 2015.

Access and parking

- 16.14 The site is accessed via the existing access established for the Rugby Club. The existing rugby club car park is available to customers of the café. The access and availability of parking provision is considered to be acceptable and there is no objection from the Highway Authority.
- 16.15 The subsequent impact to neighbours and their amenity from the removal of parking spaces for the club has been carefully considered given that the Caddy Shack and associated seating area removes approximately 10 car parking spaces that would have otherwise been available to members/visitors of the Weymouth & Portland Rugby Football Club.
- 16.16 Having viewed the site during a training session, the main club car park and overflow car park were not to capacity and were in fact a third full and whilst without doubt there will be functions occasionally which can significantly increase parking requirements at times, there is adequate parking opportunity on site in normal circumstances). It is considered that the siting of the Caddy Shack does not result

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in highway safety concerns through the reduction of parking capability.

Furthermore, the area to be used for the siting of the kiosk will be offset by the area where it currently stands becoming available for use for parking. As such, having considered the impact to neighbours from parking reduction and the impacts to highway safety, it is considered that this scheme complies with policy COM7 of the West Dorset, Weymouth & Portland Local Plan (2015) and does not cause significant parking issues for local residents or compromise the working and safety of the local highway network.

- 16.17 The Rights of Way team have been consulted on this application and have declined to comment. The Caddy Shack and seating area is separated from the main public through route and does not cause obstruction or safety concerns.

Flood Risk

- 16.18 The site is located partially within flood zone 2 with a small area falling into flood zone 3. A flood risk assessment has been provided by the applicant which confirms that the risk is primarily tidal flood risk, which is noted as being a highly predictable mode of flooding. The flood risk assessment confirms that the majority of the site falls outside of areas at risk of flooding, the flood risk being confined to the northern boundary of the site.
- 16.19 The submitted flood risk assessment concludes that the proposed use is 'less vulnerable' and that the proposal will not result in increased flood risk elsewhere, while the container itself falls outside of areas of flood risk with access and egress also being in areas of lower risk. Furthermore, it is noted that raised thresholds to the container are not required to achieve flood resilience. The container is considered to be an inherently flood resilient structure.
- 16.20 It is therefore concluded that the proposal would remain safe from flooding and would not increase flood risk elsewhere. The proposal therefore complies with policy ENV5 of the Local Plan.

17.0 Conclusion

- 17.1 The proposal has been considered against relevant policies of the West Dorset Weymouth and Portland Local Plan 2015 and other material considerations. It is considered that the proposal complies with the relevant policies and that the proposed relocation and reorientation of the kiosk from its current location will positively address the previously raised concerns with noise, which were upheld at appeal.
- 17.2 It is therefore considered that the proposal is acceptable and recommended that planning permission be granted, subject to the imposition of appropriate conditions.

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18.0 Recommendation: Grant subject to the following conditions:

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

Reason: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

001 Site Location Plan
CS 2024 002 Proposed Site Plan Floor Plan and Elevations

Reason: For the avoidance of doubt and in the interests of proper planning.

3. The premises shall not be open to customers outside the hours of 09:00 to 18:00 Monday to Saturday and 09:00 to 12:00 on Sundays.

Reason: In the interests of the amenities of adjoining and nearby residential properties.

Informative Notes:

1. Informative: National Planning Policy Framework Statement

In accordance with paragraph 38 of the NPPF the council, as local planning authority, takes a positive approach to development proposals and is focused on providing sustainable development.

The council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case:

- The applicant/agent was updated of any issues and provided with the opportunity to address issues identified by the case officer.
- The applicant was provided with pre-application advice.
- The application was acceptable as submitted and no further assistance was required.

2. Informative: The applicant is advised that the granting of planning permission does not override the need for existing rights of way affected by the development to be kept open and unobstructed until the statutory procedures authorising closure or diversion have been completed. Developments, in so far as it affects a right of way should not be started until the necessary order for the diversion has come into effect.

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3. It is the applicant's responsibility to ensure that foul water is disposed of appropriately and legally, and with any appropriate permission from Wessex Water which may be required.