

Application Number:	P/FUL/2022/03477
Webpage:	https://planning.dorsetcouncil.gov.uk/
Site address:	Weymouth Rugby Club Monmouth Avenue Weymouth Dorset DT3 5HZ
Proposal:	Retain change of use from Club parking to Cafe' area, placing of a steel box container and fencing.
Applicant name:	Weymouth & Portland Rugby Club
Case Officer:	Thomas Whild
Ward Member(s):	Cllr Barrow and Cllr Gray

1.0 This application has been brought to committee as Dorset Council is the freehold owner of the site.

2.0 Summary of recommendation:

Grant subject to conditions.

3.0 Reason for the recommendation:

- The development is classed as a new community structure (café) in compliance with policy COM2 of the West Dorset, Weymouth & Portland Local Plan (2015).
- The development is accessible to the main catchment population on a main cycling and pedestrian footpath route, so sustainably located.
- The development enhances the Rugby Football Club facility for users/visitors to the club.
- It does not significantly impact parking capability on site with no objections raised by the Highways team.
- Visual impact is acceptable in accordance with policy ENV12 of the West Dorset, Weymouth & Portland Local Plan (2015).
- Amenity impact has been fully considered and is acceptable in accordance with policy ENV16 of the West Dorset, Weymouth & Portland Local Plan (2015).

4.0 Key planning issues

Issue	Conclusion
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Principle of development	Policies COM2 and SUS2 (iii) of the West Dorset, Weymouth & Portland Local Plan (2015) support this scheme. The site is adjoining the Weymouth built up area, does not generate significant additional single purpose trips, can be sustainably accessed, and improves the Rugby Football Club larger community facility overall.
Scale, design, impact on character and appearance	The café (Caddy Shack) is visually acceptable. It is modestly scaled, finished in traditional timber and is an enhancement to the large expansive car park/scrub area. It accords with policy ENV12 of the West Dorset, Weymouth & Portland Local Plan (2015) and does not harm wider landscape in accordance with policies ENV1 and ENV10 of the West Dorset, Weymouth & Portland Local Plan (2015).
Impact on amenity	The impact on amenity is acceptable. The distance and screening (1.8m high fencing and natural planting) between the Caddy Shack and its seating area to the neighbours to the south west is sufficient to prevent significant overlooking, noise impacts, smell and overbearing impact in general in accordance with policy ENV16 of the West Dorset, Weymouth & Portland Local Plan (2015).
Access and Parking – Highway Safety	The siting of the café does not significantly intensify the need for users of the Rugby Football Club to rely on on-street parking to the detriment of local residents and their amenity in accordance with policy ENV16 of the West Dorset, Weymouth & Portland Local Plan (2015).
Biodiversity	No comments raised by the Natural Environment Team.
Flooding (in flood zones 2 and 3)	The site lies immediately adjacent to floodzone 2 with the seating area lying to its boundary. However, the seating area land has been engineered to be raised and flattened, raising the flood protection and given the limited scale of the Caddy Shack itself and surrounding land for it to drain to, it is considered that this sufficiently protects from future flood events and will not increase flooding of the site & surrounding area significantly in accordance

	with policy ENV5 of the West Dorset, Weymouth & Portland Local Plan (2015).
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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 western end of the Rugby Club's car park.
- 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 retrospective 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.
- 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. Pre-fabricated fence panels have been used to create a service area to the rear of the kiosk. A seating area has been established in front of the kiosk with timber picnic tables for customers, with the service area and seating area covering approximately 230sq metres of area. The seating area is enclosed by a new post and rail fence and the area has been surfaced with bound gravel.
- 6.3 The kiosk is set back 10 metres into the site and oriented to face south west. The main seating area is located to the south west of the kiosk.

7.0 Relevant Planning History

Application Number	Proposal	Decision	Decision date
85/00172/FUL	Erection of Rugby clubhouse	Granted	30/07/1985
86/00664/FUL	Erection of rugby clubhouse (Revised Scheme)	Granted	08/12/1986

8.0 List of Constraints

- Landscape Character; Valley Pasture; Lower Wey and Lorton Valley
- Land Outside DDBs

- Dorset Council Land (Freehold)
- Site of Special Scientific Interest (SSSI) (400m buffer): Lodmoor; - Distance: 15.01m
- Flood Zone 3
- Flood Zone 2
- Historic Landfill Site: Lodmoor

9.0 Consultations

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

Consultees

1. **Highways** – No objection.
2. **Dorset Waste Partnership** - No comments received.
3. **Env. Services – Protection** – The application states that foul sewage is not applicable, because there is no toilet. However, the café does have a sink. Proper provision must be made for the disposal of this foul sewage.
4. **Weymouth Town Council** – No objection.
5. **Asset & Property team** – No comments received

Representations received

Total - Objections	Total - No Objections	Total - Comments
19	86	10

Petitions Objecting	Petitions Supporting
0	0
0 Signatures	0 Signatures

In addition to the consultation responses noted above a significant number of public comments have been received, including in support of and objection to the application.

Points made in support are:

- The café is good for the community / a welcome asset.
- Accessible for walkers and users of the paths passing the site.

- Visual improvement from the work done to create the café as the area had previously been overgrown and disused.
- No increase in traffic as most visitors are on foot or bike.
- Job creation.
- The presence of staff helps to deter anti-social behaviour.

Points made in objection are:

- Impacts from cooking smells.
- Noise impacts, particularly when the café is busy, with the shipping container acting to direct noise towards neighbours.
- Impacts of parking for the café.
- Overlooking from the business to neighbouring gardens.
- Business is operating 7 days a week with no controls over opening hours.
- Conservation and ecological concerns as the riverbank and bushes have been cut back with a mechanical digger during the bird nesting season .
- The development has happened without planning permission having been applied for.
- Monmouth Avenue becomes an overflow carpark for the rugby club.
- Impacts are compounded by other uses of the rugby club fields for caravan rallies and pigeon racing.
- There has been no consultation with neighbours and this has led to disputes.
- Mental health impacts as a result of the noise and disturbance.
- Impacts upon safety for pedestrians and cyclists using the paths.
- Litter.
- Suggestion that the kiosk should be moved further back in the site and / or reoriented.
- Cafe is too close to neighbours.
- Health and safety concerns with children jumping from the rocks which bound the site.

10.0 Relevant Policies

Adopted West Dorset and Weymouth & Portland Local Plan (2015):

The following policies 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
- 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
- COM7 - Creating a safe & efficient transport network

Other Material Considerations

Supplementary Planning Documents/Guidance-

Weymouth & Portland Urban Design (2002)

Landscape Character Assessment (Weymouth & Portland)

National Planning Policy Framework:

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.

Relevant NPPF sections include:

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

11.0 Human rights

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.

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.

12.0 Public Sector Equalities Duty

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.

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.

13.0 Financial benefits

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

14.0 Climate Implications

14.1 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.

15.0 Planning Assessment

Principle of development

15.1 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 & 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. 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.

In terms of the criteria of policy COM2:

- The proposal is well-located and accessible to its main catchment population 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.

15.2 The café has been in situ for at least 5.5 months and no concerns have been raised in regard to impact on commercial viability elsewhere. The location right next to a pedestrian/cycle path (Lodmoor Trail) means a lot of trade is from those utilising that route or those utilising the Rugby Football Club facility with the addition of some purpose made trips, but not in the majority. Weymouth has a lot to offer in infrastructure terms and any purposeful trips by car to the Caddy Shack are likely combined with some other activity.

15.3 Prior to the structure being sited on the land, the land had formed part of the car park for Weymouth & Portland Rugby Football Club although from written accounts submitted, the area was mostly disused, used for rubbish dumping and often waterlogged. The use of the land for the siting of a café is considered to be complementary to the Rugby Football Club and their existing use of the land, which is retained. It is considered that not only does the café bring an enhancement as a community facility, but it 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 & Portland Local Plan (2015).

Character and appearance within the landscape setting

15.4 The structure is comprised of a shipping container which has been clad in timber. Prefabricated feather edge fence panels have been used to create an enclosed area to the rear of the container, which separates the customer facing area from the service area to the rear. The customer seating area is defined by a post and rail fence with timber table seating and hardstanding formed from a bound gravel/aggregate.

15.5 The structure is a low key addition to the existing car park area which maintains a functional appearance. 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. Overall, the structure is visually pleasing (particularly in comparison to the aged club building) 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

15.6 The bulk of objections to the planning application have focussed upon the impacts of the development upon the residential amenity of occupants of properties to the west of the site. These properties back on to the Lodmoor Trail and have relatively short gardens, meaning that the houses themselves are close to the boundary and residents could be seen at head height within their gardens. The concerns raised relate primarily to odours from cooking and also from noise and disturbance associated with the use as well as overlooking. The noise and disturbance concerns expressed relate both to direct impacts resulting from the operation of the café and the presence of customers in the seating area, and to indirect impacts resulting from movements associated with the use as customers visit the site. Objectors have indicated that the use has resulted in inconsiderate parking of vehicles against boundary fences and along the access to the Rugby Club.

15.7 Environmental Health has been consulted and have not raised any objection. In subsequent discussions it has been clarified that any impacts from the development

fall well short of causing a statutory nuisance and the site has a food hygiene rating of 5 (very good) following an inspection in May 2022. There is no extraction equipment at the site and during two separate site visits it was observed that the cooking of hot food is limited to an electric hot plate which is used for the cooking of bacon etc.

- 15.8 Any odours from the site are therefore wind carried, depending on when cooking is taking place which given the predominant south westerly air stream (blowing from south west to north east), will be carried away from the nearest neighbours (who are to the south west). It is accepted that cooking smells can be smelled within the garden of neighbouring properties because of general proximity (the cabin being 34m away from the nearest neighbour) and the occasional north easterly wind which would carry odour a few times a year to neighbours. However, it is noted that on both occasions use of the Caddy Shack was witnessed, no smells were apparent or overpowering from the seating area directly on the boundary closest to neighbours and whilst this cannot account for all times, the distance between and fact that any neighbour could cook these foods every day, means no reasonable objection could be made on these grounds in planning terms.
- 15.9 In terms of noise, given the lack of extraction equipment, the principal impacts arise from customers at the site and their vehicles. Objectors have pointed out that at busy times there can be significant queues and noise although in some instances those impacts appear to be arising as a result of other activities on the rugby club site. When the site has been visited the activities have been relatively quiet, customers were audible from vantage points within rear gardens, although the café itself did not direct any sound towards neighbours. On the second site visit, a first team men's Rugby match was in play and shouting/sounds of play far outweighed the handful of people sat within the seating area of the Caddy Shack. It is considered that without the café there, the site would have remained in use for parking and members of the public could stand or utilise the rear of their vehicles for refreshments and socialising without control by the Local Planning Authority.
- 15.10 Although the activities are audible from gardens, the noise levels are relatively low and the noise from the site was not observed within dwellings. It is not considered that the levels of noise or odour generated by the site are of a sufficient level to significantly detract from the amenity of neighbouring residents or the area as a whole and not at a level which would justify refusal of planning consent in this instance. Conditions have been recommended to control opening hours of the site in order to provide protection for residential amenity.

Access and parking

- 15.11 The site is accessed via 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. It is noted that in practice, informal parking has also been taking place on land opposite the café (raised by the neighbours). However, this is outside of the planning application boundary and would be a separate enforcement matter and would not in itself constitute a reason to refuse planning permission. It is noted that the original planning consent for the Rugby Club

includes a condition which requires the parking area to be provided and retained available for use at all times thereafter. As this proposal seeks planning permission to alter the parking as restricted, this deals with the varying of the condition.

15.12 The subsequent impact to neighbours and their amenity from the removal of parking ability 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. The intensification of on street parking as a result needing to be assessed.

15.13 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 in capacity and whilst without doubt there will be functions occasionally which can significantly increase parking requirements at times (one viewed by the neighbours submitted photo), there is significant parking opportunity on site in normal circumstances (and in the majority). It is considered that the siting of the Caddy Shack does not result in highway safety concerns through the reduction of parking capability. Furthermore, written accounts have claimed this land to have been overgrown, waterlogged and unused previously and it's clear that given that this vehicular route stops at the Rugby Football Club, it does not prejudice the efficient operation of a residential street but the singular route to the club only. 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.

15.14 The Rights of Way team have been consulted on this application (as requested by the Highways response) but 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

15.15 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.

15.16 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 hazard. 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.

15.17 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.

Other matters

15.18 Waste water:

The waste water from the sink (the only wastewater generated from the café) is collected in tanks and then disposed of to a drainage point to the north. Having considered this point in consultation with Environmental Health, the Wessex Water map shows a foul manhole at the position of the sump on the applicant's map. If they are connecting into that, Wessex Water will need to be contacted for their permission to open the manhole and dispose. If the sump is just a tank that needs to be emptied, then that will be acceptable, provided it is disposed of legally. This cannot be controlled by planning but informatives with this advice will be necessary.

15.19 Biodiversity:

Given the retrospective nature of this scheme, concerns over biodiversity disruption during construction have not been able to be addressed. Having reviewed the finished site, the stream directly north has not been significantly affected with dense scrub and planting still in place. The seating area has been fenced off from this area and birds were witnessed nesting in the stream area. The site area is below the threshold of 0.1ha so it does fall outside the scope of the biodiversity protocol even though a cursory investigation by an ecologist would have been requested. The Natural Environment Team have been consulted and did not comment.

16.0 Conclusion

Although the site is outside of the defined development boundary, Policy SUS2 does allow for development of this type as does policy COM2 of the West Dorset, Weymouth & Portland Local Plan (2015). It is considered that the location on the Lodmoor Trail, on the edge of the settlement and adjacent to an existing recreational facility is acceptable in principle and enhances the community sports facility as well as bringing in another community facility.

While the concerns raised in the objections to the scheme are noted and have been carefully considered, it is considered that the impacts of the development are not of a significant level to justify refusal of planning permission in this instance with no concerns raised by statutory and other consultees that also seek to safeguard the environment/highway safety. As such, the scheme complies with amenity policy ENV16 of the West Dorset, Weymouth & Portland Local Plan (2015) and highway safety policy COM7 of the West Dorset, Weymouth & Portland Local Plan (2015).

The building is visually pleasing and enhances the desolate nature of the large open car park at the visual frontage. It also makes best use of land that has been described as underused and visually negative and as such, it complies with policy ENV12 of the West Dorset, Weymouth & Portland Local Plan (2015) with the wider landscape impact being acceptable in accordance with policies ENV1 and ENV10 of the West Dorset, Weymouth & Portland Local Plan (2015).

17.0 Recommendation

Grant subject to conditions:

1. The development hereby permitted shall be carried out in accordance with the following approved plans:
RC~001 A Floor plan
RC~002 A Elevation (Front) - Existing
RC~OSP A Block plan of the site
RC~0LP A The location plan

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

2. The premises shall not be open to customers outside the hours of 09:00 to 16:00 on any day.

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 applications/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 Informative: 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.