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Application Number:	P/FUL/2022/06311
Webpage:	https://planning.dorsetcouncil.gov.uk/
Site address:	West Bay Holiday Park Forty Foot Way West Bay DT6 4HB
Proposal:	New converted shipping container catering unit
Applicant name:	David Kidd
Case Officer:	Thomas Whild
Ward Member(s):	Cllr Bolwell; Cllr Clayton; Cllr Williams

1.0 The application is being reported to the planning committee as the Council is the freehold owner of the land.

2.0 Summary of recommendation: Grant subject to conditions.

3.0 Reason for the recommendation:

- The site is located in the defined development boundary where new development is generally supported.
- The applicant has successfully demonstrated that the proposal would not have unacceptable impacts upon amenity by way of noise or odour.
- The applicant has successfully demonstrated that there are suitable flood resilience measures in place.
- The design and character of the scheme is such that it would be appropriate to its context and would avoid harm to the setting of the West Bay conservation area.

4.0 Key planning issues

Issue	Conclusion
Principle of development	The site is located within a sustainable location within the defined development boundary where development is generally supported. There are examples of other food kiosks in the vicinity and the principle of development is considered to be acceptable.
Character, appearance and impact on conservation area	Although relatively utilitarian in appearance, that is moderated by the provision of signage. The development would be seen in the context of existing buildings of limited architectural merit and views from within the conservation area to

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	the east would be filtered through the seating area to the adjacent café which incorporates railings, parasols and festoon lights.
Flood Risk	The site is located in flood zone 3. The use is however a 'less vulnerable' use and the applicant has provided an appropriate FRA which demonstrates that it is outside of the functional flood plain and which has demonstrated flood resilience measures which have been agreed with the Environment Agency.
Impact on amenity	There would not be any unacceptable impact upon amenity as a result of noise or odour.

5.0 Description of Site

- 5.1 The application site is located, at the south eastern side of the West Bay Holiday Park Site where Forty Foot Way joins the small roundabout at the northern side of the harbour. The site is irregularly shaped and encompasses the quayside café and harbour bar and associated outdoor seating area which is located at the entrance to the holiday park.
- 5.2 The area is largely level with decking to the external seating area and the ground levels of the café and bar raised slightly above the ground level with the actual ground level slightly below that of the decking. There is a low picket fence defining the edge of the site and the western part of the site is concrete and open to the road and is currently occupied by two phone boxes. It is this part of the site to which the application relates.

6.0 Description of Development

- 6.1 The proposal comprises the siting of a catering unit on the western part of the site which will serve as a kiosk for the sale of hot food to take away – namely pizza. The kiosk will be formed from a shipping container which has been converted with the provision of a service hatch and signage. The container would remain unclad and would be painted grey with red, white and green accents in the form of an Italian flag. The signage will be fixed to the roof of the container and will comprise internally illuminated lettering.
- 6.2 The unit will be sited on the western part of the application site, to the west of the existing decking and to the south of the existing café building, on an existing area of hardstanding behind the telephone boxes which are to be removed. The unit will be oriented to face southward, onto the hardstanding area. The unit will be sited 1.1m off of the existing building. The space between the unit and the building will be enclosed with a gate and used for the storage of bins.
- 6.3 The container will measure 6.1m long by 2.5m deep and 2.6m high. The signage would stand a further 0.6m above the top of the container.
- 6.4 The surrounding area comprises a mix of commercial and tourism related uses interspersed with residential development, particularly to the south of the site. This includes a fish and chip shop to the south west on Forty Foot Way and a similar food kiosk with outdoor seating area immediately to the south of the site, located in the

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forecourt area of number 22 Forty Foot Way. There are a number of small food outlet kiosks located to the east of the site, around the edge of the harbour.

7.0 Relevant Planning History

WD/D/14/000006 - Decision: GRA - Decision Date: 03/03/2014

Erection of 3 permanently fixed canopies (umbrella) to front patio seating area and replacement roofing material to front conservatory using lightweight imitation slate.

WD/D/18/002112 - Decision: GRA - Decision Date: 01/03/2019

The West Bay Coastal Improvements Scheme involves flood defence works within West Bay, including:

West Beach - repairs and strengthening to the existing western groyne and construction of a new stub groyne (eastern groyne), beach recharge to build up the design profile of the beach, and improvements and raising of the property wall on the northern side of the road running along the promenade (Esplanade);

East Beach - Construction of a buried rock revetment within the beach bund, and a new timber boardwalk; and

Parkdean Caravan Park - Re-profiling of the existing embankment along the western side of the River Brit and construction of a steel sheet piled wall immediately landward of the existing embankment.

1/W/92/000547 - Decision: GRA - Decision Date: 11/12/1992

Enlarge glazed conservatory and part conversion of existing amusement arcade to form servery/food preparation area and toilet facilities

P/FUL/2021/02223 - Decision: GRA - Decision Date: 17/02/2022

Erect flat roof entrance with double glazed doors on south elevation of conservatory. Apply upvc and timber cladding to exterior of main building and conservatory. Erect pergola over external dining area.

8.0 List of Constraints

West Bay Conservation Area

Right of Way: Footpath W1/24;

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Risk of Surface Water Flooding Extent 1 in 1000

Dorset Council Land (Freehold)

Area of Outstanding Natural Beauty (AONB): Dorset;

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

Site of Special Scientific Interest (SSSI) (400m buffer): West Dorset Coast;

Flood Zone 3

Flood Zone 2

9.0 Consultations

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

Consultees

1. **Dorset Police Architectural Liaison Officer** – No Objection.
2. **Rights of Way Officer** – No comments received.
3. **Highways** – No objection.
4. **Environment Agency** – Initial response – objection based upon incompatibility of the proposal with the flood zone within which the site is located and the inadequacy of the submitted FRA.

Amended response following receipt of updated flood risk assessment: withdraw objection subject to a condition requiring the elevation of the container by at least 300mm and the container being securely fixed to the ground to prevent movement or floatation during a flood. Following further correspondence with the Agent, the EA has agreed to the minimum finished floor levels to be set at 170mm above ground level with the unit fixed to the ground to prevent flotation.

5. **Bridport Town Council** – Neutral – whilst not directly a planning matter, the Town Council asks that the applicant considers a local operator for the catering outlet.
6. **Environmental Services – Protection** – Recommend that noise would needs to be addressed as had been requested in respect of a previously considered scheme.

No further comments following receipt of noise survey.

7. **Ramblers Association** – No comments received.
8. **Asset & Property** – No comments received.
9. **Bridport Ward Members** – No comments received.

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12. **Public Health Dorset – No comments received.**

Representations received

Total - Objections	Total - No Objections	Total - Comments
0	0	4

Petitions Objecting	Petitions Supporting
0	0
0 Signatures	0 Signatures

9.2 In addition to the consultation responses listed above, comments have been received from the West Bay Community Forum raising concerns with the appearance of the container not being in keeping with an AONB and the increase in rubbish resulting from Pizza Boxes. It is noted in their comments that there are already insufficient bins in West Bay.

10.0 Relevant Policies

Adopted West Dorset and Weymouth & Portland Local Plan:

10.1 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
- ENV4 - Heritage assets
- ENV5 - Flood risk
- ENV6 - Coastal erosion & land instability
- ENV9 - Pollution and contaminated land
- ENV10 - The landscape and townscape setting
- ENV 12 - The design and positioning of buildings
- ENV14 - Shopfronts & advertisements
- ENV 16 - Amenity
- SUS2 - Distribution of development
- COM7 - Creating a safe & efficient transport network

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Neighbourhood Plans

10.2 Bridport Neighbourhood Plan 2020-2036 (made 5/5/2020). The following policies of the plan are considered to be of relevance to the proposals:

- EE3 - Sustainable tourism
- HT2 - Public realm
- HT3 - Shopfront design
- D8 - Contributing to local character

Other Material Considerations

Emerging Local Plans:

10.3 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).

10.4 The Dorset Council Local Plan Options Consultation took place between January and March 2021. Being at a very early stage of preparation, the Draft Dorset Council Local Plan should be accorded very limited weight in decision making.

Supplementary Planning Document/Guidance

All of Dorset:

- Dorset AONB Landscape Character Assessment
- Dorset AONB Management Plan 2019-2024

Supplementary Planning Documents/Guidance For West Dorset Area:

- Vision for West Bay Regeneration Framework (2003)
- WDDC Design & Sustainable Development Planning Guidelines (2009)
- Landscape Character Assessment February 2009 (West Dorset)

Conservation Area Appraisals:

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- Bridport Harbour (West Bay) adopted January 2003

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 Other 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 5 'Delivering a sufficient supply of homes' outlines the government's objective in respect of land supply with subsection 'Rural housing' at paragraphs 78-79 reflecting the requirement for development in rural areas.
- Section 6 'Building a strong, competitive economy', paragraphs 84 and 85 'Supporting a prosperous rural economy' promotes the sustainable growth and expansion of all types of business and enterprise in rural areas, through conversion of existing buildings, the erection of well-designed new buildings, and supports sustainable tourism and leisure developments where identified needs are not met by existing rural service centres.
- Section 11 'Making effective use of land'
- 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.

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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 173). Paragraphs 179-182 set out how biodiversity is to be protected and encourage net gains for biodiversity.
- Section 16 'Conserving and Enhancing the Historic Environment'- When considering designated heritage assets, great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (para 199). The effect of an application on the significance of non-designated heritage assets should also be taken into account (para 203).

National Planning Practice Guidance

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.

11.1 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.

12.0 Public Sector Equalities Duty

12.1 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.

12.2 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

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merits of this planning application the planning authority has taken into consideration the requirements of the Public Sector Equalities Duty. The proposals will maintain access to the site for disabled people, utilising the existing level access from the street.

13.0 Financial benefits

What	Amount / value
Material Considerations	
None	
Non Material Considerations	
Business Rates	Not currently known

14.0 Environmental Implications

14.1 The proposal will contribute to additional CO2 emissions from the operation and construction of the unit.

15.0 Planning Assessment

Principle of development

15.1 The site is located within the defined development boundary for West Bay and is therefore in a location which, in accordance with policy SUS2 of the local plan, is considered to be a sustainable location for development where new employment and other development to meet the needs of the local area will normally be permitted.

15.2 Policy ECON5 of the local plan also provides support for the provision of new tourism attractions and facilities, which the proposals are considered to be, given their location and likely market. The policy advises that such facilities should be located within established settlements, which the proposal would be. Similar support is also provided by policy EE3 of the neighbourhood plan. The proposal would make use of an existing under-utilised forecourt area adjacent to the existing café and outdoor seating area at the caravan park.

15.3 The principle of the development is therefore considered to be acceptable, subject to relevant site specific considerations of the impact of the development.

Character appearance and impact on conservation area

15.4 The unit is based upon a shipping container which is converted to provide catering functions with a serving hatch and signage. It is proposed that the unit will remain unclad and will be painted grey. Being based upon a shipping container the unit would be relatively utilitarian in its appearance, with the key elements of character being provided by the proposed signage which will project above the unit and in doing so would go some way to disguise the origin of the unit.

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- 15.5 The unit would not however be experienced in isolation. Its proposed location is in front of a relatively unattractive amusement arcade which has little relationship with the street. On approach from the east and from viewpoints within the conservation area, views of the unit are filtered by the existing decking area for the cafe which features large parasols and festoon lighting fixed to permanent light poles as well as timber railings meaning that the nature of the structure's construction would only become apparent on closer approach. At times when the parasols are not present the unit would be more prominently visible but would be set against the backdrop of the existing large and unrelieved buildings so it is not considered on balance that there would be harm in this scenario.
- 15.6 Considering the buildings that already exist adjacent to the site and the range and type of similar kiosks and structures which are present in the locality, the proposed cabin would not appear out of place and would integrate appropriately. The existing forecourt area where the unit is to be sited is under-utilised and the proposal would bring in an active usage and allow removal of the unsightly telephone boxes delivering a degree of public realm enhancement.
- 15.7 In terms of heritage impacts the site is outside of the West Bay Conservation Area but is within the area's setting. In view of the existing status of the site and the appearance of neighbouring buildings it is considered that the proposals would represent a neutral impact upon the conservation area, meaning that the overall character of the conservation area would be preserved.

Flood Risk

- 15.8 The site is located within flood zone 3b (functional floodplain) as defined by the West Dorset Strategic Flood Risk Assessment. The sources of flooding are considered to be a combination of primarily fluvial with tidal as a secondary risk, primary through the influence on the flows of the River Brit through tidal locking. This initially led to an objection from the Environment Agency in respect of the flood risk of the site and the incompatibility of the use with flood zone 3b (functional flood plain) and the inadequacy of the initially submitted flood risk assessment.
- 15.9 The applicant has subsequently provided a more detailed flood risk assessment which has considered the risks in greater detail. The flood risk assessment has challenged the conclusion from the Strategic Flood Risk Assessment that the site is within flood zone 3b, due to the presence of a number of flood defences in the area, which are maintained by the Environment Agency, and some assumptions which were made in respect of the extent of flood zone 3b in the mapping. On the basis of the analysis, the flood risk assessment concludes that the site does not fall within the functional flood plain. It also notes that the Environment Agency's historic flood maps do not show any historic flood events impacting the site, which has been confirmed by the site management.
- 15.10 There is considered to be very low risk of flooding from surface water, ground water and reservoirs.

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- 15.11 Updated comments provided by the Environment Agency in response to the flood risk assessment have agreed with the conclusions of it, that the site falls not within flood zone 3b, but flood zone 3a. This has allowed the environment agency to lift its objection to the proposals subject to conditions requiring the unit to be fixed to the ground to prevent flotation and to ensure that the finished floor levels within the unit are no lower than 170mm.
- 15.12 The proposed use as a hot food takeaway is a less vulnerable use as defined in Annexe 3 to the National Planning Policy Framework. Therefore it is not necessary to apply the exceptions test in this instance. In respect of the sequential test, the flood risk mapping for the area, which is reproduced within the flood risk assessment indicates that the whole of the holiday park site and all areas around the harbour at west bay are subject to the same degree of flood risk (falling within flood zone 3). It is therefore considered that the sequential test can be passed as there would be no reasonable alternative sites for the development at lower risk of flooding. The flood risk assessment includes flood resilience measures which include setting of minimum finished floor levels and fixing the unit to the ground to avoid flotation and these have been agreed with the Environment Agency. Subject to the imposition of conditions to secure these appropriate flood resilience measures it is considered that the proposal is acceptable in flood risk terms and complies with policy ENV5 of the local plan.

Amenity

- 15.13 Being for a catering use, the proposal has potential to impact residential amenity primarily through noise from the operation of extraction and cooking equipment, and through odours from extraction. The proposal has been supported by specialist reports in respect of both issues.
- 15.14 In respect of noise, an assessment of environmental noise has been prepared in accordance with relevant national planning practice guidance and British Standard 4142:2014. That involved measurement of background sound at a position near to the location of the unit. Based on opening hours of 12:00 to 00:00 7 days a week and manufacturers' specifications for the equipment to be used in the unit, the noise modelling indicated that noise impacts from the development would fall well below the range of 'low impact' and would therefore have no observed effect. On the basis of the report, no specific noise management is required. The proposed use is considered to be a sui generis use, being for a hot food takeaway, therefore it would not be possible to change to an alternative and potentially noisier use of the unit without first seeking planning consent.
- 15.15 In respect of air quality, details of a filtration system have been provided which uses a combination of filters to provide air filtration and odour control.
- 15.16 Both reports have been reviewed by the Council's Environmental Protection Team, which has not raised any objections. In view of this and the site's location in an area where there are already a range of food outlets, it is not considered that the proposal would give rise to unacceptable impacts upon amenity in this regard.

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15.17 The potential for the development to give rise to impacts in terms of additional waste generation is noted. However, the scheme includes provision for the storage of bins to the rear of the unit. The availability or otherwise of bins within West Bay as a whole is beyond the scope of this application. However, it is considered appropriate to impose a condition requiring the provision of a refuse bin for public use within the site to discourage littering.

16.0 Conclusion

16.1 The proposed catering unit is sustainably located and considered to be acceptable in principle. Although relatively utilitarian in appearance the context of the site is that it would be seen against relatively modern buildings that are themselves of little merit. Views of the unit from within the conservation area to the east would be filtered across the established seating area for the adjacent café, together with its large parasols and festoon lighting. Therefore, the character and appearance of the unit are considered to be acceptable without causing harm to the setting of the West Bay Conservation Area.

16.2 The applicant has provided sufficient evidence to demonstrate that the proposal would not give rise to unacceptable impacts upon neighbouring residential amenity through noise or odour. The submitted flood risk assessment has adequately demonstrated that the site falls within flood zone 3a and has set out appropriate measures to ensure flood resilience.

16.3 Therefore the proposals are considered to be acceptable and it is recommended that planning permission is granted.

17.0 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:

PR001.21.OS Location Plan
PR001.21.BLOCK A Block Plan
PR001 21 P04 C Proposed Plan
PR001 21 P05 C Proposed Elevation A
PR001 21 P06 C Proposed Elevation B
PR001 21 P07 B Site Plan

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

3. The development shall be carried out in accordance with the submitted flood risk assessment (dated 20 January 2023, produced by Avison Yound, Reference 01C300055) including the following mitigation measures:

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- Floor levels to be set at least 170mm above existing ground level.
- The unit shall be securely fixed to the ground to prevent movement/flotation during a flood.

These mitigation measures shall be fully implemented prior to the first use of the unit and shall subsequently be maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants and prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

4. The filtration system detailed in the Specification and EMAQ report dated 30/08/2022 shall be installed and operational prior to the first use of the unit. The system shall be retained thereafter and maintained in accordance with the manufacturer's specifications. No additional extraction or ventilation equipment shall be installed on the unit.

Reason: to prevent harmful emission of odours and noise from the unit.

5. The catering unit hereby approved shall not be open to the public outside of the hours of 12:00 (midday) to 00:00 (midnight) daily.

Reason: to prevent harmful impacts from noise and disturbance from the use of the unit.

6. Prior to the first use of the catering unit, a waste bin for use by the public shall be provided on the site in accordance with details which shall have first been submitted to and agreed in writing by the Local Planning Authority.

Reason: To minimise the proliferation of litter associated with the development.

Informative Notes:

1. We strongly recommend the use of flood resistance and resilience measures. Physical barriers, raised electrical fittings and special construction materials are just some of the ways you can help reduce flood damage.

To find out which measures will be effective for this development, please contact your building control department. In the meantime, if you'd like to find out more about reducing flood damage, visit the flood risk and coastal change pages of the planning practice guidance. The following documents may also be useful:

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- Government guidance on flood resilient construction
<https://www.gov.uk/government/publications/flood-resilient-construction-of-newbuildings>
- British Standard 85500 – Flood resistant and resilient construction
<https://shop.bsigroup.com/ProductDetail/?pid=000000000030299686>

2. 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.