

## SCHEDULE A: Applications with Recommendation

21/0079

Item No: 01

Date of Committee: 26/03/2021

**Appn Ref No:**  
21/0079

**Applicant:**  
Green Spaces

**Parish:**

**Agent:**

**Ward:**  
Cathedral & Castle

**Location:** Land adjacent to The Lodge, Bitts Park, Dacre Road, Carlisle, CA3 8UZ

**Proposal:** Erection Of Temporary Hub Of Container Units, Interlinked To Provide Low Key Food And Drink Outlets

**Date of Receipt:**  
02/02/2021

**Statutory Expiry Date**  
30/03/2021

**26 Week Determination**

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### REPORT

**Case Officer:** Stephen Daniel

#### 1. Recommendation

- 1.1 It is recommended that this application is approved with conditions.

#### 2. Main Issues

- 2.1 Whether The Proposal Is Acceptable In Principle
- 2.2 Whether The Scale And Design Would Be Acceptable
- 2.3 Impact Of The Proposal On Carlisle Castle, The City Centre Conservation Area And Archaeology
- 2.4 Flood Risk
- 2.5 Crime Prevention
- 2.6 Other Matters

#### 3. Application Details

##### The Site

- 3.1 The site is currently occupied by portacabins, which sit on a raised mound, and which are being used by the contractor that is undertaking works to improve the existing flood defences around Bitts Park. The site was previously occupied by a high ropes course and climbing wall, which was

enclosed by a 2.4m high mesh fence.

- 3.2 The Lodge adjoins the site to the east, with the children's play area adjoining the site to the west and tennis courts lying to the north. A grass area, which contains a number of trees, lies to the south and this is adjoined by Dacre Road beyond which lies Carlisle Castle.

## **The Proposal**

- 3.3 The application is seeking a temporary five-year planning permission for the container hub. The hub would consist of a series of containers situated within a courtyard arrangement, with the enclosed courtyard containing seating areas. The containers would range in size and would contain a range of uses which would include a cafe, street food units, a bar, retail units, makers space, a well being unit and an office space which would be occupied by a site manager. There is also an option to provide toilets but it is understood that the City Council intends to provide these elsewhere within the park.
- 3.4 The containers would sit directly upon the raised mound, with steps and ramps providing access from all sides. They would contain a large number of windows and would be finished in a dark grey painted finish with coloured artwork being added to the units. They would have a maximum height of 2.6m. Each entry point to the courtyard would have open timber pergolas spanning across the openings with lockable gates.
- 3.5 The containers would arrive ready converted and would be craned into position with only the internal works to be completed.

## **4. Summary of Representations**

- 4.1 This application has been advertised by means of three site notices and a notification letter sent to one neighbouring property. In response, one letter has been received which supports the previous plans to use the Lodge as a cafe.

## **5. Summary of Consultation Responses**

**Cumbria County Council - (Highways & Lead Local Flood Authority):** no objections - proposal would not affect the highway or increase flood risk;

**Local Environment - Environmental Protection:** - all the individual street food units would need to comply with the food safety and hygiene regs;

**English Heritage - North West Region:** - no objections on heritage grounds;

**Environment Agency:** - no objections subject to conditions (anchoring down of units):

**Cumbria Constabulary - North Area Community Safety Unit:** - no

objections - crime prevention has been considered as part of the design;

**United Utilities:** - no objections subject to conditions (foul and surface water drained on separate systems; surface water discharging to soakaways).

## **6. Officer's Report**

### **Assessment**

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 6.2 The relevant planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG) and Policies SP1, SP2, SP6, SP8, HE2, HE3, HE7, CC4, IP3, IP6 and CM4 of the Carlisle District Local Plan 2015-2030.
- 6.3 The proposal raises the following planning issues.
  1. Whether The Proposal Is Acceptable In Principle
- 6.4 The proposal is seeking temporary planning permission to site a container hub within Bitts Park. The hub would include a cafe, a bar and various food outlets which would be used by visitors to the park and would enhance the visitor experience.
- 6.5 The site is within walking distance of the city centre and within 300m of the bus stops on West Tower Street. The proximity of the city centre and Carlisle Castle would allow linked trips to occur. In addition, Hardian's Wall Path and Sustrans Cycle Route 72 would pass near to the development.
- 6.6 The container hub would provide accommodation for a range of businesses. Units would be affordable and experience from other projects throughout the country suggests that they would be occupied by small, local independent businesses. A number of these would be new start up businesses who could test out new ideas and concepts in an affordable and safe environment. Experience from elsewhere has also shown that a number of these businesses grow and expand and move on to larger premises in the local area. The hub would also provide a creative space for local artists and performers to showcase their work as well as providing a safe venue for children and families both during the day and in the early evening.
- 6.7 The project is being funded by £150,000 from the Town Deal Capital Accelerated Fund. The funds have been identified for improvements to parks and green spaces.
- 6.8 In light of the above, the proposal would be acceptable in principle.

## 2. Whether The Scale And Design Would Be Acceptable

- 6.9 The containers would sit directly upon the existing raised mound, with steps and ramps providing access from all sides. They would be located within a single-storey courtyard arrangement and would have a maximum height of 2.6m.
- 6.10 The containers would have a contemporary feel and would become a focal point within this area of Bitts Park. They would contain large amounts of glazing on both the inward and outward facing elevations and this would allow visitors to Bitts Park to view the activities taking place within the units. It would also give customers visiting the units views out to the surrounding park and Carlisle Castle.
- 6.11 The containers would be finished in a dark grey painted finish with coloured artwork being added to the units to add visual interest. Each entry point to the courtyard would have open timber pergolas spanning across the openings with lockable gates.
- 6.12 The scheme is seeking to be based on 'green' credentials. Current ideas include providing green roofs on the containers, providing landscaping within and around the development and providing charging points for electric bikes.
- 6.13 In light of the above, the scale and design of the containers would be acceptable.

## 3. Impact Of The Proposal On Carlisle Castle, The City Centre Conservation Area And Archaeology

- 6.14 Carlisle Castle, which is Grade 1 Listed, lies approximately 70m to the south of the proposed container hub and the hub would be visible in certain views of the Castle from the park.
- 6.15 Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 highlights the statutory duties of Local Planning Authorities whilst exercising of their powers in respect of listed buildings. The aforementioned section states that:

*"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".*

- 6.16 Policy HE3 of the adopted Local Plan seeks to ensure that Listed Buildings and their settings will be preserved and enhanced.
- 6.17 The application site lies within the City Centre Conservation Area. Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 highlights the statutory duties of Local Planning Authorities whilst exercising of their powers in respect to any buildings or land in a conservation area.

The aforementioned section states that:

*"special attention shall be paid to the desirability or preserving or enhancing the character or appearance of that area".*

- 6.18 The aims of the 1990 Act are reiterated in both the NPPF, PPG and policies within the adopted Local Plan. Policy HE7 of the Local Plan advises that proposals should preserve or enhance the special character and appearance of conservation areas.
- 6.19 Case law (South Lakeland District Council v Secretary of State for the Environment (1992)) has established the principle that if development has a neutral impact on a conservation area, in that it made no positive contribution but left it unharmed, it could properly be said to preserve the character and appearance of that area.
- 6.20 The applicant is accompanied by a Heritage Statement. This notes that as the containers are to be installed for a limited period there would be no long-term impact on the setting of Carlisle Castle. The containers would be located within a single-storey courtyard arrangement and a number of existing trees would help to screen the views between the site and the castle. The setting of the Castle is predominantly its relationship with the City and this would be unaffected by the development. The Heritage Statement concludes that the overall impact of the proposed development on the Castle is a minimal one.
- 6.21 Historic England has been consulted on the application. It notes that the development is within the City Centre Conservation Area, and separated by a narrow road from Carlisle Castle. Previous evaluation close to the site of the proposed development has demonstrated that well preserved archaeological remains, which fall into the category of 'nationally important but un-designated', as defined in the National Planning Policy Framework (NPPF), survive within the area. The proposed development has the potential to harm the setting of the Castle and the character of the Conservation Area, as well as to impact directly upon nationally important archaeological remains.
- 6.22 Historic England considers that the proposed development would be sited within one of the more unsightly areas of Bitts Park, the clutter of tennis courts and playground making no positive contribution to the character of the Conservation Area. The relatively low-key nature of the proposed development is unlikely to cause additional harm. Similarly, the massive bulk and commanding appearance of the Castle, which is undoubtedly the most striking historic feature in the northern part of the City Centre Conservation Area, would ensure that the construction of a low-level development of the kind proposed is unlikely to have any significant negative impact upon its setting.
- 6.23 In relation to archaeology, Historic England notes that the levels of parts of the area at the southern end of Bitts Park have been raised in recent years as a response to flooding. The proposed development would be sited on one

of these areas, and should not, therefore, impact upon the nationally important but undesignated archaeology beneath. Connecting into existing service runs, as proposed, should also reduce any risk of impact.

- 6.24 Government advice, as set out in the NPPF, is that harm to designated heritage assets should be avoided, and that any harm requires justification. In this case, Historic England considers the harm to the setting of the Castle and to the character of the Conservation Area to be very low, whilst the impact on nationally important archaeological remains would be minimal. Public benefits are claimed for the proposed development in supplying refreshments to users of Bitts Park, which currently lacks such facilities. Whilst that is unlikely to offer a high level of public benefit, it may well be sufficient to outweigh the low level of harm which the proposed development would cause to designated heritage assets and their settings.

#### 4. Flood Risk

- 6.25 The proposed development falls within Flood Zone 3, meaning it is at high risk of flooding without benefiting from flood defences. The development consists of container units which would have little or no impact on the flood water capacity in the area. In addition, the combination of the mass of units and lack of flood water flow or current means the units are able to resist potential movement in a flood event.
- 6.26 To reduce the impact of the site locally, the surface water runoff would mimic the natural conditions, which would be achieved through the use of SuDS. In addition, the site levels have already been raised locally to reduce the likelihood that flood water would affect the units. The elevated level of the site would also ensure that there is little or no standing water on the site which will allow the facilities to remain functional even after heavy rain.
- 6.27 To protect against flood waters affecting equipment within the units, sockets and appliances would be placed above the 1 in 100 year flood level. In addition, watertight shutters could be used to limit the damage caused internally. For flood events that do not exceed the finished flood levels, non-return valves should be installed on the foul water network to ensure effluent does not back up into the container village.
- 6.28 The Environment Agency has been consulted on the application and has confirmed that it has no objections to the proposed development which would be categorised as 'less vulnerable'. The proposed development is located in Bitts Park which is within Flood Zone 3 and in an area that is known to flood. The development would be at risk of flooding and the finished floor level of 14.2 metres AOD as proposed would be below the predicted 1 in 100 year flood level, without allowing for climate change. The development could potentially experience flood water inundation to a depth of 0.5 metres during the design flood.
- 6.29 The Environment Agency has reviewed the Flood Risk Assessment (FRA). Given the nature and scale of the proposed development, it is satisfied that the development would be safe without exacerbating flood risk elsewhere

provided that the proposed flood risk mitigation measures are implemented. The proposed development must proceed in strict accordance with this FRA and the mitigation measures identified as it will form part of any subsequent planning approval.

- 6.30 Since the FRA does not identify how the containers would be anchored to the ground the Environment Agency has requested that a condition is added to any permission to request these details.

## **5. Crime Prevention**

- 6.31 The containers would be secure with safety glass throughout, full locking door assemblies and they would be wired for intruder alarms. Each entry point to the courtyard would have lockable gates.
- 6.32 The Crime Prevention Officer has been consulted on the application. The scheme architects consulted with the Constabulary prior the application being submitted. It is evident from the published Design and Heritage Statement that crime prevention has been considered as part of the design of this development and thus demonstrates compliance with Policy CM4 of the Local Plan.

## **6. Other Matters**

- 6.33 The Lead Local Flood Authority has confirmed that it has no objections to the proposed development which would not increase flood risk on site or elsewhere.
- 6.34 United Utilities has confirmed that it has no objections to the proposals, subject to conditions to ensure that foul and surface water are drained on separate systems and surface water discharges into soakaways.

## **Conclusion**

- 6.35 The proposal would be acceptable in principle. The scale and design of the container hub would be acceptable and it would not have an adverse impact on the setting of Carlisle Castle, or the City Centre Conservation Area or on archaeology. The proposed development would be acceptable in relation to flood risk. In all aspects, the proposal is considered to be compliant with the relevant policies in the adopted Local Plan.

## **7. Planning History**

- 7.1 In November 2013, planning permission was granted for the erection of a high ropes course with integrated climbing wall, including 2.4m high mesh fence to perimeter of site (13/0724).

## **8. Recommendation: Grant Permission**

1. The development shall be begun not later than the expiration of 3 years beginning with the date of the grant of this permission.

**Reason:** In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:

1. the submitted planning application form, received 3rd February 2021;
2. Location Plan/ Block Plan/ General Site Massing & Layout (Dwg 2020-152-12B Rev B), received 3rd February 2021;
3. General Floor Plan & Elevations (Dwg 2020-152-10), received 3rd February 2021;
4. Drainage Layout (Dwg 664\_01 (DR) 100), received 3rd February 2021;
5. Drainage Details (Dwg 664\_01 (DR) 101 P01), received 3rd February 2021;
6. Design & Heritage Statement, received 3rd February 2021;
7. Flood Risk Assessment, received 3rd February 2021;
8. Drainage Statement, received 3rd February 2021;
9. Transport & Deliveries Statement, received 3rd February 2021;
10. Emergency Vehicle Access Statement, received 3rd February 2021;
11. Waste & Refuge Statement, received 3rd February 2021;
12. the Notice of Decision;
13. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

3. The development shall be removed in its entirety from the site and the land reinstated not later than the five years from the date of the permission. Removal and reinstatement of the site shall be undertaken in strict accordance with a scheme that shall first have been submitted to and approved in writing by the local planning authority.

**Reason:** The application has been considered on the basis that the buildings will be removed following a specified temporary period.

4. Notwithstanding the details shown on the General Floor Plan, the containers hereby approved shall be used for food outlets, cafes, a bar, makers/ workshop space, health and well being space, retail space, a management office and for toilets for no other purpose unless otherwise agreed in writing



with the local planning authority.

**Reason:** To ensure that the development is occupied by appropriate uses and to accord with Policy SP2 of the Carlisle District Local Plan 2015-2030.

5. Prior to installation of any of the temporary units, details of the measures that will be implemented to ensure the temporary units are secured on site during a flood event must be submitted to, and approved in writing by, the local planning authority. Examples of measures includes anchoring (to a suitable extent) of the units.

**Reason** To reduce the risk of units being displaced during a flood event.

6. Foul and surface water shall be drained on separate systems.

**Reason:** To secure proper drainage and to manage the risk of flooding and pollution.

7. The drainage for the development hereby approved, shall be carried out in accordance with principles set out in the submitted Drainage Layout dated 1/2/2021 proposing surface water discharging into soakaways.

No surface water will be permitted to drain directly or indirectly into the public sewer. Any variation to the discharge of foul shall be agreed in writing by the Local Planning Authority prior to the commencement of the development.

The development shall be completed in accordance with the approved details.

**Reason:** To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding.

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Queen Victoria Memorial

Tennis Courts

Tennis Courts

Bowling Green

Public Park

Car Park

Bike Path

20.9m

Alma

El Sub Sta

PC

PB

Tinner Works

Ramparts

Bike Path

N

Block Plan 1:500

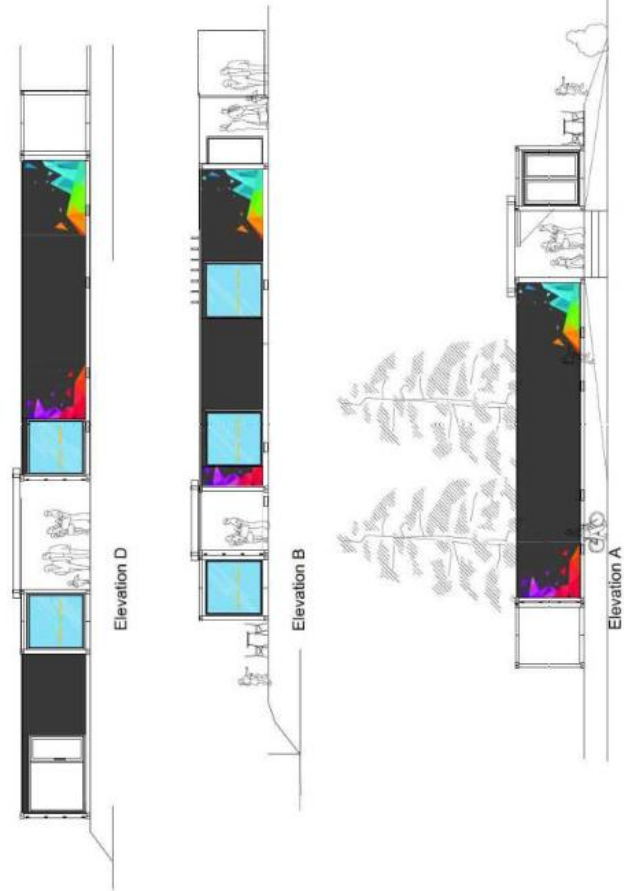
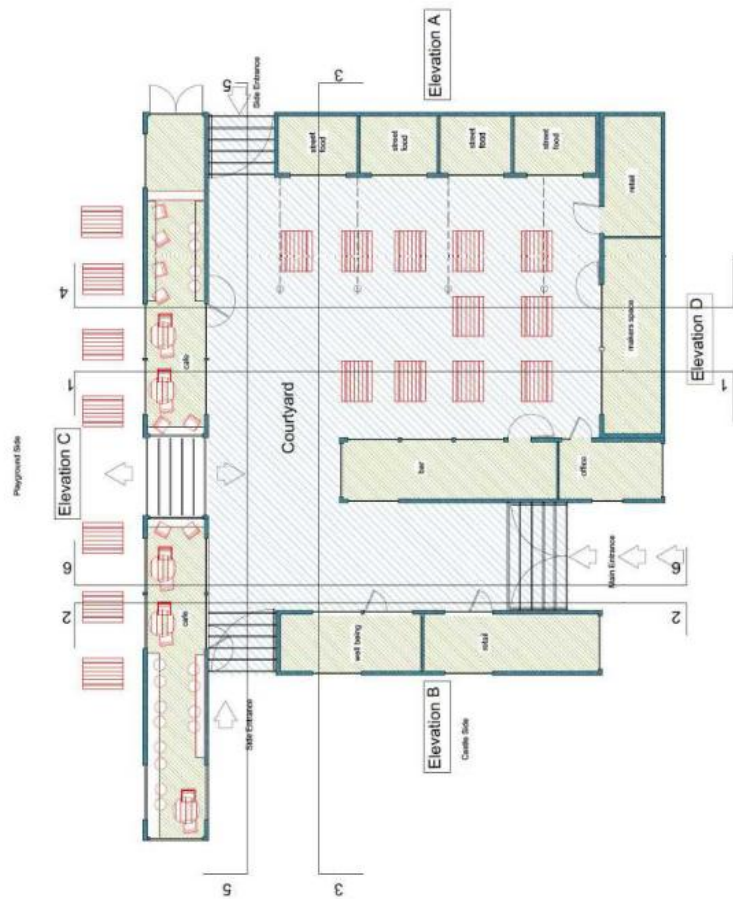


General Massing 1:100



Location Plan 1:1250

PLANNING ISSUE		DATE: 11/26/2012 11:47 AM (LOCAL TIME)	
<p>    <b>BLACK BOX</b>             CONSTRUCTION         </p>	<p>           10000 10th Avenue, Suite 100            Dallas, Texas 75243            Tel: 214.343.1212         </p>	<p>           Bill's Park Containers            Carlsbad         </p>	<p>           General info missing            and layout            Site plan!         </p>
<p>           Bill's Park Containers            Carlsbad         </p>	<p>           11300 and 15000            GSA-2026         </p>	<p>           2020-152-128         </p>	<p>           11/26/2012         </p>

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