

2.6 REFERENCE NO: - 24/500823/FULL		
PROPOSAL: Continued use of the rear external area for the siting of children's fairground rides and associated attractions, for a temporary period of two years (retrospective).		
SITE LOCATION: Jimmy Gs Amusements The Promenade Leysdown Sheerness Kent ME12 4QB		
RECOMMENDATION: Delegate to the Head of Planning to grant planning permission subject to appropriate safeguarding conditions set out in the report, with further delegation to the Head of Planning to negotiate the precise wording of conditions, including adding or amending such conditions as may be consequently necessary and appropriate.		
APPLICATION TYPE: Minor		
REASON FOR REFERRAL TO COMMITTEE: A request has been submitted by Councillor Elliot Jayes for the application to be presented to and determined by the planning committee due to concerns over the potential impacts of the scheme on the residential amenity of the occupiers of neighbouring dwellings.		
Case Officer: Luke Simpson		
WARD: Sheppey East	PARISH/TOWN COUNCIL: Leysdown	APPLICANT: Mr Godden AGENT: N/A
DATE REGISTERED: 15/03/2024		TARGET DATE: 06/05/2024
BACKGROUND PAPERS AND INFORMATION: Documents referenced in report are as follows: - Planning Statement dated 23/02/2024 (uploaded on 26/02/2024) Flood Risk Assessment dated 11/03/2024 (uploaded on 26/02/2024) Location Plan (24016/002/A) dated 21/02/2024 (uploaded 26/02/2024) Block Plan (24016/001/B) dated 21/02/2024 (uploaded on 04/03/2024) Site Floor Plan (24016/004/A) dated 04/03/2024 (uploaded on 04/03/2024) Elevation Plans – drawing 1 (24016/002/A) dated 04/03/2024 (uploaded 04/03/2024) Elevation Plans – drawing 2 (24016/003/A) dated 04/03/2024 (uploaded 04/03/2024) KCC Highways consultee response dated 19/03/2024 (uploaded 19/03/2024) Environmental Protection consultee response dated 21/03/2024 (uploaded 21/03/2024) Neighbour representation from Mr Chris Frances dated 06/04/2024 Neighbour representation from Mr Gary Howells dated 17/03/2024 The full suite of documents submitted pursuant to the above application are available via the link below: -		

<https://pa.midkent.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=S9GMUKTYLC500>

1. SITE LOCATION AND DESCRIPTION

- 1.1 The application site relates to a piece of land situated at the rear of Jimmy G's Amusements, on the Promenade of Leysdown. The site is a hard surfaced area that is occupied by a number of amusements and small children's fairground rides. This use was granted temporary planning consent in 2021 under application referenced 19/501431/FULL (see Planning History section below).
- 1.2 The site is enclosed to the north by residential properties on the southern side of Grove Avenue, to the east by the Jimmy G's Amusements itself, to the south by a storage yard and west by the promenade car park.

2. PLANNING HISTORY

- 2.1 **24/500546/FULL** – Planning permission refused on 17.05.2024 for Demolition of existing single storey detached ancillary building and erection of a two storey rear extension, including full refurbishment of existing amusement centre and construction of a raised entrance area with entrance canopy to side. Reconfiguration of car park and associated landscaping works.
- 2.2 **19/501431/FULL** - Planning permission granted on 24.11.2021 for Continued use of the rear external area to an established amusement centre for children's fairground rides & associated attractions. (Retrospective).
- 2.3 **SW/07/1058** – Planning permission granted on 30.10.2007 for Refurbishment of existing amusement centre, including relocating and provision of new shopfronts, re-cladding existing roofs & fascias and provision of new external wall cladding to all elevations.
- 2.4 **SW/84/0172** – Planning permission granted on 17.05.1984 for Hairdressers, kentucky derby, café, offices, workshop, amusement arcade, bingo area, bingo shop, kiddies area, bumper car area, paybox and workshop.
- 2.5 **SW/83/0545** – Planning permission granted on 28.07.1983 for Change of use from hairdressers to amusements.

3. PROPOSED DEVELOPMENT

- 3.1 This application seeks retrospective temporary planning permission for the continued use of the rear external area for the siting of children's fairground rides and associated attractions. The temporary permission being sought is for a period of two years.

4. CONSULTATION

- 4.1 One round of consultation has been undertaken, during which letters were sent to neighbouring occupiers and a notice was displayed at the application site. Full details of representations are available online.
- 4.2 2 letters of representation were received in relation to the consultation, both objecting to the application. Concerns/ comments were raised in relation to the following summarised matters: -

Comment	Report reference
Impact of noise from music and associated activity on neighbouring amenity.	See paragraphs 7.11 – 7.18
Impact of light pollution from security lighting / advertisements on neighbouring amenity.	See paragraph 7.20
The impact of the fairground on the visual amenity of the area.	See paragraph 7.6
Concern regarding the boundary treatment and planting between the application site and neighbouring properties.	See paragraph 7.20

4.3 **Leysdown Parish Council** - No comments received.

5. REPRESENTATIONS

5.1 **Mid Kent Environmental Health** – No objection subject to the implementation of noise mitigation, including the installation of a noise limiter to amplifiers and a noise management plan detailing noise control measures and a procedure for dealing with direct complaints. It is also recommended that illuminated signage is not appropriate or should be controlled, although this would need to be done through a separate application for advertisement consent.

5.2 **KCC Highways** - This development proposal does not meet the criteria to warrant involvement from the Highway Authority in accordance with the current consultation protocol arrangements.

6. DEVELOPMENT PLAN POLICIES

6.1 **Bearing Fruits 2031: The Swale Borough Council Local Plan 2017**

ST1 Delivering sustainable development in Swale

ST3 The Swale settlement strategy

ST6 The Isle of Sheppey Area Strategy

CP1 Building a strong, competitive economy

CP4 Requiring good design

DM7 Vehicle parking

DM14 General development criteria

7. ASSESSMENT

7.1 This application is reported to the Committee at the request of Cllr Elliot Jayes. Considering the proposal that has been submitted, the committee is recommended to carefully consider the following main points:

- The Principle of Development
- Character and Appearance
- Transport and Highways
- Living Conditions

Principle

- 7.2 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that the starting point for decision making is the development plan unless material considerations indicate otherwise.
- 7.3 The National Planning Policy Framework provides the national policy context for the proposed development and is a material consideration of considerable weight in the determination of the application. The NPPF states that any proposed development that accords with an up-to-date local plan should be approved without delay. At the heart of the NPPF is a presumption in favour of sustainable development and for decision-taking this means approving development that accords with the development plan.
- 7.4 The site lies within the built-up area boundary of Leysdown, in an area of established arcades and amusements. The use of the site as an amusement arcade is already established, and the rides are positioned on an existing hardstanding close to the existing amusements centre. The principle of development is therefore considered acceptable.

Character and Appearance

- 7.5 The National Planning Policy Framework attaches great importance to the design of the built environment and that design should contribute positively to making places better for people. The Swale Borough Local Plan reinforces this requirement through Policy CP4, which requires development proposals to be of high-quality design and to be in keeping with the character of the area.
- 7.6 The site comprises an area of hardstanding at the rear of an amusements arcade known as Jimmy G's, which has been used to accommodate a number of fairground attractions and associated structures. The surrounding part of Leysdown can be characterised by seaside attractions that are common for such areas, with another amusement arcade on the opposite side of the promenade (east) and a crazy golf course to the north-east of the site and a large public car park to the west. However directly to the north also lies a terrace of residential dwellings. Mindful of this established character and the fact that the site is situated behind the main arcade and therefore is only visible from the public car park, it is considered that the retention of the children's rides and associated structures would not have a significantly detrimental impact on the character and appearance of the area. Whilst some objectors have raised concern about the visual impact of the open rides, this is against the backdrop of the amusement arcades on the promenade, and it is not considered to be visually harmful or in conflict with Policies CP4 or DM14 of the Local Plan.

Transport and Highways

- 7.7 The NPPF promotes sustainable patterns of development and expects land use and transport planning to work in parallel in order to deliver such. A core principle of the NPPF is that development should:

“Actively manage patterns of growth to make the fullest use of public transport, walking and cycling and to focus development in locations which are sustainable.”

7.8 The NPPF also states that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

7.9 Local Plan policy promotes sustainable transport through utilising good design principles. It sets out that where highway capacity is exceeded and/ or safety standards are compromised proposals will need to mitigate harm.

7.10 No changes are proposed to the size of the existing fairground or the number of attractions that will be accommodated within it. It is not anticipated that the proposal in itself would result in any material increase in visitors to the site or an increase in parking demand for the area. In any case, the site is located immediately adjacent to a large public car park. As such it is not considered that the proposal would have a detrimental impact upon the function of the local highway network, and would not be in conflict with policies DM7 or DM14 of the Local Plan.

Living Conditions

7.11 The Local Plan requires that new development has sufficient regard for the living conditions of neighbouring occupiers. Local Plan Policy DM14 states that any new proposed developments should not cause significant harm to the amenities of surrounding uses or areas.

7.12 As stated above, the wider area is established as a tourism area with established amusements and where a degree of noise is to be expected. However careful consideration must be given in respect of this development, particularly in regards to opening hours and any excessive noise and disturbance that the use of this area for children’s rides could cause. Objections have been received from occupiers of two of the terraced properties at Seaview Mews, situated to the north of the site, which are primarily based upon noise and light impacts from this development.

7.13 The Council’s Environmental Health Officer has reviewed the application and has confirmed that whilst there are no objections to the continued use of the site for accommodating small fairground attractions; there are a number of issues that will need to be addressed and controlled through the use of appropriately worded conditions.

7.14 A number of complaints have been raised by local residents that are related to light and noise pollution issues associated with the use of the site as a small fairground, and the site has been previously monitored by the Council’s Environmental Health Officers following the receipt of enforcement complaints. In total four formal enforcement complaints have been received, each of which relate to the playing of amplified music outside of permitted hours or the operation of the development past the expiry date of the previous temporary permission. As a result of the previous temporary consent expiring, this current application has been submitted for consideration. Further to this, silencers have been added to one of the rides (previously known as Jumping Jack but now referred to as Jumping Star). However, it is noted that in their response Environmental Health have stated that investigations into amplified noise are still ongoing and it is recommended that further controls are needed

in the form of a noise limiter, a noise management plan and the implementation of timed activation controls to ensure that amplifiers are not operated beyond the permitted operational hours of the rides. It is also recommended that the ride identified as 'Jumping Star' on the submitted site plan should continue to only be operated with pneumatic silencers.

- 7.15 The suggested conditions related to the noise limiter, timed activation control and the retention of silencers are all deemed to be relevant in this instance and as such have been recommended below. The noise limiter and timer control introduces an increased level of control compared to the previous consent granted under ref. 19/501431/FULL. As it is considered that these measures would ensure an appropriate level of control over noise, it is not considered necessary to include a condition that requires the applicant to submit a further noise management strategy, particularly given that local residents already have the opportunity to raise complaints to the Council's Planning Investigation or Environmental Health teams. As a result, this condition has not been recommended.
- 7.16 The application seeks opening hours of between 10am and 7pm, 7 days a week including bank holidays, which are considered to be acceptable and as such these hours have also been conditioned below.
- 7.17 In terms of overlooking, the tallest ride (Jumping Star) has a total height of 7.5 metres to the very top of the sign, but the carriage for people is only 4.5m high. However, this ride is approximately 23m from the neighbouring properties rear garden fence, and on this basis, it is not considered that this would give rise to an unacceptable loss of privacy. The other rides and attractions are small in size and are positioned away from the neighbouring residential dwellings. The site backs onto the current public car park and it is therefore considered that there would not be any harmful opportunities for overlooking and the scheme would not result in any unacceptable levels of overshadowing or a loss of outlook.
- 7.18 Subject to compliance with these conditions, it is considered that the proposed development would not create a situation that would result in significant harm to the residential amenities of the occupiers of neighbouring dwellings, and would not be in conflict with Policy DM14 of the Local Plan.

Other matters

- 7.19 The applicant has submitted a flood risk assessment which states that part of the site lies within Flood Zone 2/3; however, the Environment Agency Flood Maps for Planning confirms that the site is wholly within Flood Zone 1 and therefore is at low risk of flooding. It has therefore not been necessary to consult the Environment Agency or consider impacts from flooding.
- 7.20 Although some of the points raised by neighbouring occupiers have been considered as part of the above discussion those points that remain are responded to as follows. Concerns regarding boundary treatment appear to relate to planting growing over neighbouring gardens. This is considered to be a private matter although occupiers do have the right to cut planting that is growing over the property boundary. In addition, it is recognised that there are concerns regarding security lighting. Although this

application is not seeking consent for security lighting this is able to be raised separately with the Council. A condition has also been imposed regarding lighting. Finally, concerns regarding lighting from advertisements are not controlled by this application for planning permission, but separately via advertisement consent / regulations.

Conclusion

- 7.21 In summary it is considered that through the use of appropriately worded planning conditions the retrospective application for the continued use of the site for children's amusement rides will not have an unacceptable impact on residential or visual amenities, and would accord with the Local Plan. It is therefore recommended that planning permission be granted for the temporary period as sought.

CONDITIONS

- 1) The use hereby permitted shall cease on or before the expiry of a period of two years from the date of this permission.

Reason: In order that the impact of the use can be reviewed at the end of the period stated.

- 2) The development hereby approved, including the positioning of the rides and attractions shall be maintained in accordance with approved plans 24016/001/B, 24016/002/A, 24016/003/A and 24016/004/A.

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

- 3) The development hereby approved shall not be operated or open to the public outside the hours of 10.00 to 19.00 Monday - Sunday.

Reason: In the interest of the residential amenities of the area.

- 4) The noise amplifiers/speakers to the rear of the main building and within the area to which this application relates shall be fitted with a timer control system to ensure that the speakers are switched off between the hours of 19:00 and 10:00. From permission being granted, this is to be installed within a one-month period.

Reason: In the interests of residential amenity.

- 5) The ride known as the 'Jumping Star' ride on layout plan 24016/001/B (referred to as "Jumpin Jack" on the site) shall only be operated with pneumatic silencers installed and these shall be maintained in accordance with the manufacturer's instructions thereafter.

Reason: In the interests of residential amenity.

- 6) No rides shall remain switched on or illuminated outside of the hours referred to in condition (3), and no new floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority. These details shall include:

- A statement of why lighting is required, the proposed frequency of the use and the hours of illumination.
- A site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
- Details of the number, location and height of the lighting columns or other fixtures.
- The type, number, mounting height and alignment of the luminaries.
- The beam angles and upwards waste light ratio for each light.
- An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.

Reason: In the interests of visual and residential amenity.

- 7) Any noise amplifiers/speakers to the rear of the main building and within the area to which this application relates shall be fitted with a noise limiter, details of which shall be submitted to the Local Planning Authority within one month of the date of this permission. The details shall include the noise level (in dB) that the limiters shall restrict noise levels to. The noise limiters must be installed within one month of being approved and subsequently maintained.

Reason: In the interest of residential amenity.

The Council's approach to the application

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and creative way by offering a pre-application advice service, where possible, suggesting solutions to secure a successful outcome and as appropriate, updating applicants / agents of any issues that may arise in the processing of their application.

The application was considered by the Planning Committee where the applicant/agent had the opportunity to speak to the Committee and promote the application.

