

[ ] Remove or Vary a condition

S/090/01996/21

**APPLICANT:** Butlins Skyline Limited,

**VALID:** 20/09/2021

**AGENT:** Walsingham Planning,

**PROPOSAL:** Section 73 application in relation to condition no. 4 (opening hours) as imposed on planning permission reference no. S/090/02215/20 which was for erection of a building to accommodate a performance stage and seating.

**LOCATION:** BUTLINS RESORT, ROMAN BANK, INGOLDMELLS, SKEGNESS, PE25 1NJ

**FOR DELEGATED APPLICATIONS USE THE FOLLOWING:-**

**1.0 THE SITE AND SURROUNDINGS**

- 1.1 The application site is located within the Butlins complex on the eastern side of Roman Bank. The site itself was formerly a large gravelled area at the rear of the Skyline Pavilion entertainment centre and it is now the site of a large new show bar and entertainment centre approved under lpa Ref S/90/2215/20. To the south is a large indoor sports centre and to the north a restaurant and holiday accommodation block.
- Further to the south and north are more facilities and accommodation on the Butlins complex while to the east is a grassed area, parking spaces and then the promenade and beach.

**2.0 S.73 APPLICATIONS**

- 2.1 Section s.73 applications are to vary or remove a condition associated with a planning permission. Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unchanged. NPPG paragraph 031 says "in deciding an application under section 73, the Local Planning Authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application" and "It should be noted that the original planning permission will continue to exist whatever the outcome of the application under section 73". A decision notice describing the new permission should be issued, setting out all of the necessary conditions related to it.
- 2.2 Decision notices for the grant of planning permission under s.73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. In granting permission under s.73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission. If the decision maker

- considers that the original conditions should remain unchanged, the s.73 application should be refused.
- 3.3 The section makes it clear that in considering such an application a local planning authority may only consider the "question of the conditions", the inference and supported in case law is that the description may not be changed or altered. However, in terms of decision making, a s.73 application should be treated just like any other application, and due regard is to be paid to the development plan and other material considerations.

### **3.0 DESCRIPTION OF THE PROPOSAL**

- 3.1 The proposal is to vary condition 4 on planning application reference number S/090/2215 /12 which states as follows;

The temporary building hereby permitted shall not be open for customers outside the following times: 08:00 hrs to 23:00 hrs.

Reason: In the interests of the amenity of local residents. This condition is imposed in accordance with paragraph 127 of the National Planning Policy Framework.

- 3.2. The variation of the condition now put forward is to allow the building to be open up to 02:00am if needed. It is proposed from 2300 to 0200 hours a silent disco concept would be in operation the details of which are set out below.

### **4.0 CONSULTATION**

#### **Consultees**

PARISH COUNCIL -Support

LCC HIGHWAYS AND LEAD LOCAL FLOOD AUTHORITY - No obs

ENVIRONMENTAL SERVICES (Environmental Protection) - [Condition that after 23:00 that the building will be operated as a silent disco only as per the submitted documents and that there must be no amplified music played on the premises after 23:00](#)

ENVIRONMENTAL SERVICES (Drainage) - n/r

ENVIRONMENTAL SERVICES (Contamination) -n/r

LINCOLNSHIRE POLICE- No Objections

**Publicity – SN/PN**

## **Neighbours**

**No comments received**

### **5.0 RELEVANT PLANNING HISTORY**

- 5.1 In January 2021 under Ipa Ref S/90/2215/20 Planning Permission was granted for the erection of a building to accommodate a performance stage and seating.
- 5.2 **Under Ipa Ref S/90/2087/21 and running concurrently with this application is a proposal to retain the building in perpetuity and permit some extensions and alterations.**

### **6.0 PLANNING CONSIDERATIONS**

#### **Planning Policy:**

##### **East Lindsey Local Plan:**

##### **SP10 Design**

SP17 Coastal East Lindsey

SP21 Coastal Employment

#### **National Planning Policy Framework (Paragraph 185 in particular)**

#### **Officer Assessment:**

- 5.1 The main issue in this case is whether the proposed extended hours will give rise to noise and disturbance that will give rise to harm to the living conditions of residents in the area.

Paragraph 185 of the Framework states in part that planning decisions should take account of the likely effects off pollution on health and living conditions and in doing so should mitigate and reduce to a minimum potential adverse impacts resulting from noise.

It was in this context that Condition 4 on S/90/2215/20 was imposed to allow the building to be used as a performance venue only up to 11pm. The view taken by colleagues in Environmental Services at that time was that given the construction of the building and its intended use that noise levels would be at unacceptable levels beyond that time and maybe disruptive to sleep.

The intention is now to extend the operating hours to allow the building to be used until 2:00am to meet customer demand and extend the customer offer of events at the building. To mitigate the noise emissions from the premises it is intended to use a concept known as "silent disco" between the hours of 11:00pm to 2:00am. This means that the guests in

the premises will get a set of headphones and music is then relayed via a local wireless network. The applicants are also content for a condition to be imposed that no amplified music be used at the premises after 11.00pm

The site of this building is located on the eastern side of the existing complex behind existing buildings. Therefore it is not near dwellings, but despite this and to take a cautious approach in terms of preventing harmful noise emissions from the premises the applicants consider this concept will allow events to take place up to 2:00am without any adverse impacts on residents in the wider area.

Colleagues in Environmental Services have been consulted on the application and have advised that subject to mitigation they don't object to the application, the mitigation being that the building operate under the silent disco concept after 2300hrs and after 2300hrs no amplified music shall be played

Conditions are therefore suggested on that basis and the application is therefore now considered to be reasonable and can be supported.

## **6.0 RECOMMENDATION APPROVE**

### **RECOMMENDATION:**

subject to the following conditions:

1. The building hereby permitted shall be removed and the land restored to its former condition on or before 26th January 2024.

Reason: In order to comply with the applicants requirements and to prevent flood risk issues arising from the development

- 2.

The development hereby permitted shall be completed in accordance with the following approved plans;

2015-WOO-SKG-00-DR-A-105 Rev B 20/09/2021	Received by the LPA on
2015-WOO-SKG-00-DR-A-001 Rev G 11/12/2020.	Received by the LPA on
2015-WOO-SKG-00-DR-A-100 Rev G 11/12/2020.	Received by the LPA on
2015-WOO-SKG-00-DR-A-104 Rev C 11/12/2020.	Received by the LPA on
2015-WOO-SKG-00-DR-A-402 Rev C	Received by the LPA on

11/12/2020.

2015-WOO-SKG-00-DR-A-101 Rev D Received by the LPA on 11/12/2020.

2015-WOO-SKG-00-DR-A-400 Rev C Received by the LPA on 11/12/2020.

2015-WOO-SKG-00-DR-A-300 Rev A Received by the LPA on 11/12/2020.

2015-WOO-SKG-00-DR-A-401 Rev C Received by the LPA on 11/12/2020.

2015-WOO-SKG-00-DR-A-102 Rev C Received by the LPA on 11/12/2020.

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

3. The development hereby permitted shall be used at all times in accordance with the measures set out in the Flood Risk Assessment, including the Evacuation Plan, as set out in the document dated November 2020 submitted with application number S/90/2215/20.

Reason: To reduce the risk of flooding to the proposed development and future users in accordance with paragraph 164 of the National Planning Policy Framework.

4. The temporary building hereby permitted shall not be open for customers outside the following times:

08:00 hrs on one day to 02:00 hrs on the following day, and between 23:00hrs and 0200hrs the building shall be operated as a silent disco only as set out in Technical Note 001 accompanying the application.

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Reason: In the interests of the amenity of local residents. This condition is imposed in accordance with paragraph 185 of the National Planning Policy Framework.

5. Notwithstanding condition 4 there must be no amplified music played on the premises between 2300hrs and 0200hrs

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Reason: In the interests of the amenity of local residents. This condition is imposed in accordance with paragraph 185 of the National Planning Policy Framework.

- 6.

The Local Planning Authority have worked with **the applicants and their agent** in a positive and proactive manner to seek solutions to issues arising, **prior to submission of the application** and now consider the proposal is acceptable and there is compliance with the relevant Development Plan Policies cited above and also the National Planning Policy Framework.

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