

Reference: 24/00295/FUL	Site: Golden Chicken & Pizza 10 Civic Square Tilbury Essex RM18 8AD
Ward: Tilbury St Chads	Proposal: Retention of siting of four shipping containers linked together on hard standing for storage and refrigeration. Alternative scheme to 21/02033/FUL

Plan Number(s):		
Reference	Name	Received
TPLA0035PP/01	Site Layout	12th March 2024
TPLA0035PP/02	Existing and Proposed Plans	12th March 2024

The application is also accompanied by: Design and Access Statement – Received 12th March 2024 Flood Risk Assessment – Received 12th March 2024	
Applicant: Mr Suhjit Patel	Validated: 12 March 2024 Date of expiry: 10 June 2024 (Extension of Time agreed)
Recommendation: Refusal.	

This application is scheduled for determination by the Council’s Planning Committee because the application has been called in by Cllrs Kelly, Liddiard, Watson and Raper in accordance with Part 3 (b) 2.1 (d) (i) of the Council’s Constitution to consider the visual impact of the development upon the character of the area, and local and residential amenities.

1.0 DESCRIPTION OF PROPOSAL

1.1 Retrospective planning permission is sought for the siting of four shipping containers which have been interlinked to provide one singular storage unit with refrigeration, which have been erected within the rear of the site. The containers are used for refrigerated storage as well as general storage for the Applicant’s hot food take away

and catering business. The 4 units have a collective floor area of 58.9sqm. It is proposed to add a tiled pitched roof and dark grey cladding to the external surfaces (elevations) of the containers.

- 1.2 The application has been submitted following the refusal of similar applications in 2021 (Ref. 21/02033/FUL) and 2022 (Ref. 22/01570/FUL), the most recent of which was also dismissed at appeal on 8th February 2024.

2.0 SITE DESCRIPTION

- 2.1 This application site of 0.16 hectares is located to the rear of nos. 1-14 Civic Square in Tilbury. The site is brownfield, within a mixed area of commercial and residential uses and the site forms part of a Central Shopping Area. There are residential uses surrounding the site, with residential semi-detached houses to the north, east and west of the site, and maisonettes (at first floor level) adjacent to the site.
- 2.2 The application site falls within Flood Risk Zone 3 and is identified as being within the ‘Zone of Influence’ area for the Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar site.
- 2.3 The site is not within a Conservation Area nor are there any Listed Buildings within the immediate vicinity that are impacted.

3.0 RELEVANT HISTORY

Application Reference	Description of Proposal	Decision
02/00184/FUL	Installation of roller shutter to shop front	Approved
11/00854/FUL	Internal alterations and change of use from Class A1 to Class A3	Approved
12/00302/CV	To enable the cafe to offer fine dining in the evenings, weekends and bank holidays. - Variation of condition 2 for operation between the hours of 6:30 to 23:00 Monday to Saturday and 10:00 to 22:00 on Sunday and Bank Holidays.	Approved
14/01072/FUL	Proposed store room to the rear of 10 Civic Square	Approved

15/01098/NMA	Non material amendment to planning application [14/01072/FUL] External walls and roof to be in powder coated metal cladding.	Approved
16/00859/FUL	Erect 3 storey detached building for 2 retail units and 3 storage units at ground floor. 1st and 2nd floor use for 8 apartments with parking.	Refused
17/01142/FUL	Erect 3 storey detached building to accommodate 2x retail units, 3x storage units at ground floor level and 8x apartments (resubmission of 16/00859/FUL - Erect 3 storey detached building for 2 retail units and 3 storage units at ground floor. 1st and 2nd floor use for 8 apartments with parking)	Approved – Not Implemented
21/02033/FUL	Siting of four shipping containers linked together on hard standing for storage and refrigeration.	Refused 11.02.2022
22/01570/FUL	Retention of siting of four shipping containers linked together on hard standing for storage and refrigeration. Proposed is the painting of the exterior of the containers and the installation of a pitched roof.	Refused 17.01.2023 Appeal Dismissed 08.02.2024

The following enforcement history is also of relevance:

Enforcement Reference	Description	Decision
21/00437/BUNUSE	Large shipping container at the rear of this premises that is being used as a large refrigeration unit for the business.	Investigated, established a planning application is required. Application submitted. Case closed upon receipt of valid planning application
21/00460/BUNWKS	Extractor fan for shop may not have planning permission.	Investigated, established no breach of planning had occurred. Case closed

4.0 CONSULTATIONS AND REPRESENTATIONS

- 4.1 Detailed below is a summary of the consultation responses received. The full version of each consultation response can be viewed on the Council's website via public access at the following link: www.thurrock.gov.uk/planning

PUBLICITY:

- 4.2 This application has been advertised by way of individual neighbour notification letters and a site notice has been placed nearby. No written comments have been received in relation to the proposal.

HIGHWAYS:

- 4.3 No Objections.

ENVIRONMENTAL HEALTH OFFICER:

- 4.4 The storage units include refrigeration units within and as such have the potential to cause negative noise impacts. This department has previously received noise complaints regarding this premises; whilst at this time a statutory nuisance has not been witnessed the benchmark for planning is below that of 'nuisance'.
- 4.5 Due to the distance to noise sensitive receptors the application is acceptable subject to a condition regarding an acoustic assessment of all of the noise-generating fixed plant at the site should permission be granted.

FLOOD RISK MANAGER:

- 4.6 Considered that as there is no change to the impermeable area or risk of flooding, the Council as Lead Local Flood Authority (LLFA) has no comments on this application. Should there be any change to the proposals, the LLFA should be reconsulted.

5.0 POLICY CONTEXT

National Planning Policy Framework

- 5.1 The revised NPPF was published on 20 December 2023 and sets out a presumption in favour of sustainable development. Paragraph 2 of the Framework confirms the tests in s.38 (6) of the Planning and Compulsory Purchase Act 2004 and s.70 of the

Town and Country Planning Act 1990 and that the Framework is a material consideration in planning decisions. Paragraph 11 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development. The following headings and content of the NPPF are relevant to the consideration of the current proposals:

5.2 The following sections are relevant to the consideration of the current proposals:

- 2. Achieving sustainable development
- 4. Decision-making
- 6. Building a strong, competitive economy
- 11. Making effective use of land
- 12. Achieving well-designed places
- 15. Conserving and enhancing the natural environment

National Planning Policy Guidance

5.3 In March 2014 the Department for Communities and Local Government (DCLG) launched its planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning policy guidance documents cancelled when the NPPF was launched. The NPPG contains a range of subject areas, with each area containing several subtopics.

Thurrock Core Strategy and Policies for Management of Development (as amended) (January 2015)

5.4 The “*Core Strategy and Policies for Management of Development Focused Review: Consistency with National Planning Policy Framework Focused Review*” was adopted by Council on the 28th February 2015. The following policies apply to the proposals:

Thematic Policies:

- CSTP22 (Thurrock Design)
- CSTP23 (Thurrock Character and Distinctiveness)
- CSTP27 (Management and Reduction of Flood Risk)
- CSTP7 (Network of Centres)
- CSTP8 (Viability and Vitality of Existing Centres)

Policies for the Management of Development:

PMD1 (Minimising Pollution and Impacts on Amenity)
PMD2 (Design and Layout)
PMD8 (Parking Standards)
PMD9 (Road Network Hierarchy)
PMD15 (Flood Risk Assessment)

- 5.5 Saved Borough Local Plan Policy SH10 – Non Retail Uses in District and Local Shopping Centres

Thurrock Local Plan

- 5.6 In February 2014 the Council embarked on the preparation of a new Local Plan for the Borough. Between February and April 2016 the Council consulted formally on an 'Issues and Options (Stage 1)' document and simultaneously undertook a 'Call for Sites' exercise. In December 2018 the Council began consultation on an Issues and Options [Stage 2 Spatial Options and Sites] document, this consultation has now closed and the responses have been considered and reported to Council. On 23 October 2019 the Council agreed the publication of the Issues and Options 2 Report of Consultation on the Council's website and agreed the approach to preparing a new Local Plan. In December 2023 the Council began Initial Proposals Consultation (Regulation 18).

Thurrock Design Strategy

- 5.7 In March 2017 the Council launched the Thurrock Design Strategy. The Design Strategy sets out the main design principles to be used by applicants for all new development in Thurrock. The Design Strategy is a supplementary planning document (SPD) which supports policies in the adopted Core Strategy.

6.0 ASSESSMENT

- 6.1 The assessment below covers the following areas:

- I. Principle of Development
- II. Relevant Planning History
- III. Design and Layout
- IV. Amenity Impacts
- V. Traffic impact, Access and Car Parking
- VI. Flood Risk
- VII. Enforcement

- I. PRINCIPLE OF THE DEVELOPMENT

- 6.2 The site lies within a Central Shopping Parade as identified within the Council's Local Plan. As such, Policies SH10 and CSTP7 are applicable to this development. The immediate vicinity consists of mixed uses including retail, other commercial uses and residential use. The wider surrounding of the site consists of residential units.
- 6.3 There are no in-principle land use objections to the development, subject to its compliance with the relevant Development Management policies.

II. RELEVANT PLANNING HISTORY

- 6.4 The current application is a second revision to the original planning application refused in 2021 (Ref. 21/02033/FUL). A subsequent application was submitted following the refusal of this scheme in 2022 (Ref. 22/01570/FUL). This application sought retrospective planning permission for the four shipping containers, which were interlinked to provide one singular storage unit for refrigeration, to be used ancillary to the main unit. It was proposed to paint the units in dark grey paint and introduce a new pitched roof constructed from timber and felt as part of the development. The shipping containers are located to the rear of the site and have a collective floor area of 58.9sqm.
- 6.5 The original application had been submitted following an enforcement complaint and investigation at the site, and both subsequent planning applications (21/02033/FUL and 22/01570/FUL) were refused for the following reason;

The containers are visible from surrounding residential properties and partially from within the public domain and, by virtue of their utilitarian appearance and materials, are harmful to the visual amenities of the location and detrimental to the appearance and character of the locality. The siting of the containers is consequently considered to be contrary to Policies CSTP23 and PMD2 of the Core Strategy (2015) and design guidance in the NPPF.

- 6.6 The refusal of 22/01570/FUL was appealed in 2023 (Appeal Ref. APP/M1595/W/23/3324846) and was dismissed on 8th February 2024. The Inspector considered the main issue to be the effect of the development on the character and appearance of the area.
- 6.7 The Inspector acknowledged the proposal to paint and roof the shipping containers but noted that, by design, they are shipping containers and would retain such an appearance. The Inspector commented that:

"Shipping containers are not a feature associated with residential areas and are visually out of keeping for this reason. Their size, design and utilitarian form causes

visual harm to the character and appearance of the locality. This harm is clearly visible in the outlook of existing neighbouring residential occupiers.

The occupiers of neighbouring properties should reasonably expect to enjoy an acceptable outlook as part of their residential lives. There are other structures, such as garages, sheds and outbuildings, to the rear of the commercial premises and within the area. Nonetheless, the proposal introduces structures substantially out of keep with the locality that are clearly visible over existing boundaries. The visual harm arising from the presence of the shipping containers, even if painted and hosting a pitched roof, would diminish the enjoyment of the residential living environment for neighbouring occupiers and would harm the enjoyment the existing occupiers should reasonably expect to enjoy.”

6.8 The Inspector concluded that:

“...the proposed development [the dark grey paint and dual pitched roof finish] would be harmful to the character and appearance of the area. The proposal would, therefore conflict with Policies CSTP23 and PMD2 of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development 2015 and the provisions of the Framework.”

6.9 Following the determination of the dismissed appeal in February, the applicant has submitted the current revised planning application.

III. DESIGN AND LAYOUT

6.10 Policy PMD2 of the Core Strategy requires that all design proposals should respond to the sensitivity of the site and its surroundings and must contribute positively to the character of the area in which it is proposed and should seek to contribute positively to local views, townscape, heritage assets and natural features and contribute to the creation of a positive sense of place.

6.11 Policy CSTP22 of the Core Strategy indicates that development proposals must demonstrate high quality design founded on a thorough understanding of, and positive response to, the local context.

6.12 In considering applications, the Council is keen to support viable businesses where they can be carried out without harm to residents and the local environment. The shipping containers are sited close to the rear garden of a residential property. The units would be clearly visible to neighbouring residential occupiers in both Arkwright Road and Manor Road. They would also be visible to the occupiers of the residential

properties above the Civic Square commercial parade. Care has to be taken within these environments, as noted by the Inspector.

- 6.13 The containers are generic shipping containers of the design, size and type that would often be expected in commercial areas. The proposal seeks to install a dual pitched roof to the containers, of the same height as was previously refused; the application form submitted refers to a proposed felt pitched roof, and the Design and Access Statement refers to a 'tiled pitched roof'. Given the discrepancy and the span of the containers, further discussions have been held with the Applicant. The Applicant has advised they would be seeking to use a form of tile cladding panels to the pitched roof, in a similar dark grey colour to the proposed composite cladding to the remainder of the containers.
- 6.14 While it is acknowledged that the proposal to clad the external surfaces with dark grey composite cladding and tiling panels would be some improvement above the previous dark painting and pitched roofing, they are not considered sufficient to materially alter the visual amenity impact of the physical appearance of the four containers, and the proposal ultimately would still appear wholly similar to that which was refused and dismissed at appeal.
- 6.15 The very recent appeal decision and conclusions of the Inspector are relevant and it is considered that the adoption of cladding would fail to overcome the overall detrimental appearance of the shipping containers in this location.
- 6.16 Although it is appreciated that the containers are located to the rear of commercial premises, the site is adjacent to a predominantly residential area. The use of containers as a solution for the storage of goods in this type of area conflicts with the Council's policies in relation to design and visual amenity, particularly because of the partially residential location and their visual prominence from the public realm. This same point was also noted by the Inspector.
- 6.17 In conclusion, it is considered that the proposed alterations fail to overcome the concerns previously raised by the Inspector. Given the visual prominence of the containers from the surrounding residential properties, it is considered that the siting of the containers, massing and the proposed materials, would result in harm to the detriment of the visual amenities of the location and its surrounding area. The application is thus considered to be contrary to Policies CSTP22 and PMD2 and is recommended for refusal for this reason.

IV. AMENITY IMPACTS

- 6.18 Policy PMD1 of the Core Strategy indicates that developments will not be permitted where it would cause unacceptable effects on the amenities of the area; the amenity

of neighbouring occupants, or the amenity of future occupiers of the site. Policy PMD2 goes on to describe that the council will require all design proposed to respond sensitively to its surrounding, to optimize the potential of the site to accommodate development, to fully investigate the magnitude of change that would result from the proposals, and mitigate against negative impacts.

- 6.19 The containers in situ are located to the rear of the site and cover most of the rear garden area of the commercial premises. To the rear the site abuts the residential garden of 36 Arkwright Road, although they are set away from shared boundary lines . To the immediate east and west lie the rears of the units in the remaining Civic Square parade, and the west and north lie the rears of residential properties on Manor Road. The ground floors of Civic Square are in commercial use with residential uses on the upper floors.
- 6.20 The proposed development would result in an increase in overall height of the containers, replacing the cuboid shape with a composite tiled pitched roof, and therefore adding substantial bulk given the span of the containers. The height would remain similar to that assessed by the Inspector from previous appeal, who determined that the: *“...proposal introduces structures substantially out of keep with the locality that are clearly visible over existing boundaries. The visual harm arising from the presence of the shipping containers, even if painted and hosting a pitched roof, would diminish the enjoyment of the residential living environment for neighbouring occupiers and would harm the enjoyment the existing occupiers should reasonably expect to enjoy.”*
- 6.21 With respect to noise, the Council’s Environmental Health Officer has advised that whilst they had previously received complaints in relation to the noise generated by the refrigerator units, but that they had not witnessed any statutory noise nuisance emanating from these units under the previous application. If the application were being recommended favourably, a condition is recommended in order to secure details of the submission of an acoustic assessment to be agreed by the LPA. Given that the development is not recommended approval, further information has not been requested by officers. It is therefore concluded that there is no substantial noise impact that would warrant a refusal.
- 6.22 It is therefore concluded that, by reason of the siting, scale and bulk of the proposed container units, the development would continue to result in detrimental harm to both visual amenity and neighbour amenity contrary to Policies PMD1 and PMD2.

V. TRAFFIC IMPACT, ACCESS AND CAR PARKING

- 6.23 As established within permission 17/01142/FUL, the land to the rear of 10 Civic Square was used as storage in association to the commercial unit prior to the siting

of the containers that is a current breach of planning control. Vehicular activity and deliveries would already be occurring to this site.

- 6.24 It is considered that the development has not resulted in any intensification of vehicles movements at the site, the Council's Highways Officer raised no objection to the retention of the shipping containers. It is considered that the application complies with Policies PMD8 and PMD9.

VI. FLOOD RISK ASSESSMENT

- 6.25 The site is located within high Flood Risk Zone 3, and flood defences are in place. The application would not result in a land use change and the development is considered to be minor in the context of the NPPF (2023). Furthermore, the applicant's Flood Risk Assessment demonstrates that the development would not lead to an increased risk of flooding. As such, the application is unlikely to lead to any further risk by way of flooding or surface water drainage. Therefore, the application is considered to be acceptable regarding flood risk.

VII. ENFORCEMENT

- 6.26 The existing structure on site is in breach of planning regulations. The application is recommended for refusal and enforcement action should therefore be considered given the negative visual and residential amenity impacts emanating from the development.

7.0 RECOMMENDATION

- 7.1 REFUSE for the following reasons:

1. The proposed containers, by reason of their siting, appearance, form and materials would be out of keeping with the surrounding area and location it belongs within. Given the prominent position, and its visibility from the public domain and surrounding residential properties, would result in an incongruous form of development that would negatively impact the wider area resulting in detrimental impact on the character and appearance of the site and its surrounding area.

The proposal is therefore in contrary with Policies CSTP22, CSTP23 and PMD2 of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development (2015) and the guidance set out within National Planning Policy Framework (2023).

2. The proposed containers, by reason of their size, siting, visibility and design would represent an unneighbourly form of development, detrimental to the amenities of the

occupiers of adjoining residential properties, particularly by reason of loss of outlook, diminishing the enjoyment of the residential living environment for neighbouring occupiers that they should reasonably expect to enjoy. The proposal is therefore in contrary with Policies Policy PMD1 and PMD2 of the Thurrock Local Development Framework Core Strategy and Policies for Management of Development (2015).

Informative:

Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) - Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant/Agent the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal.

However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm, which has been clearly identified within the reason for refusal and the Planning Inspectorate, approval has not been possible. Therefore, no amendments have been sought.

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online: www.thurrock.gov.uk/planning

