

Notice of Eastern BCP Planning Committee



Date: Thursday, 21 November 2024 at 10.00 am

Venue: Committee Room, First Floor, BCP Civic Centre Annex, St Stephen's Rd, Bournemouth BH2 6LL

Membership:

Chair:

Cllr P Hilliard

Vice Chair:

Cllr M Le Poidevin

Cllr C Adams
Cllr J Clements
Cllr D A Flagg

Cllr M Gillett
Cllr G Martin
Cllr Dr F Rice

Cllr J Salmon
Cllr M Tarling
Cllr L Williams

All Members of the Eastern BCP Planning Committee are summoned to attend this meeting to consider the items of business set out on the agenda below.

The press and public are welcome to view the live stream of this meeting at the following link:

<https://democracy.bcpCouncil.gov.uk/ieListDocuments.aspx?MIId=6105>

If you would like any further information on the items to be considered at the meeting please contact: Jill Holyoake on 01202 127564 or email democratic.services@bcpcouncil.gov.uk

Press enquiries should be directed to the Press Office: Tel: 01202 118686 or email press.office@bcpcouncil.gov.uk

This notice and all the papers mentioned within it are available at democracy.bcpCouncil.gov.uk

GRAHAM FARRANT
CHIEF EXECUTIVE

13 November 2024

**DEBATE
NOT HATE**



Available online and
on the Mod.gov app

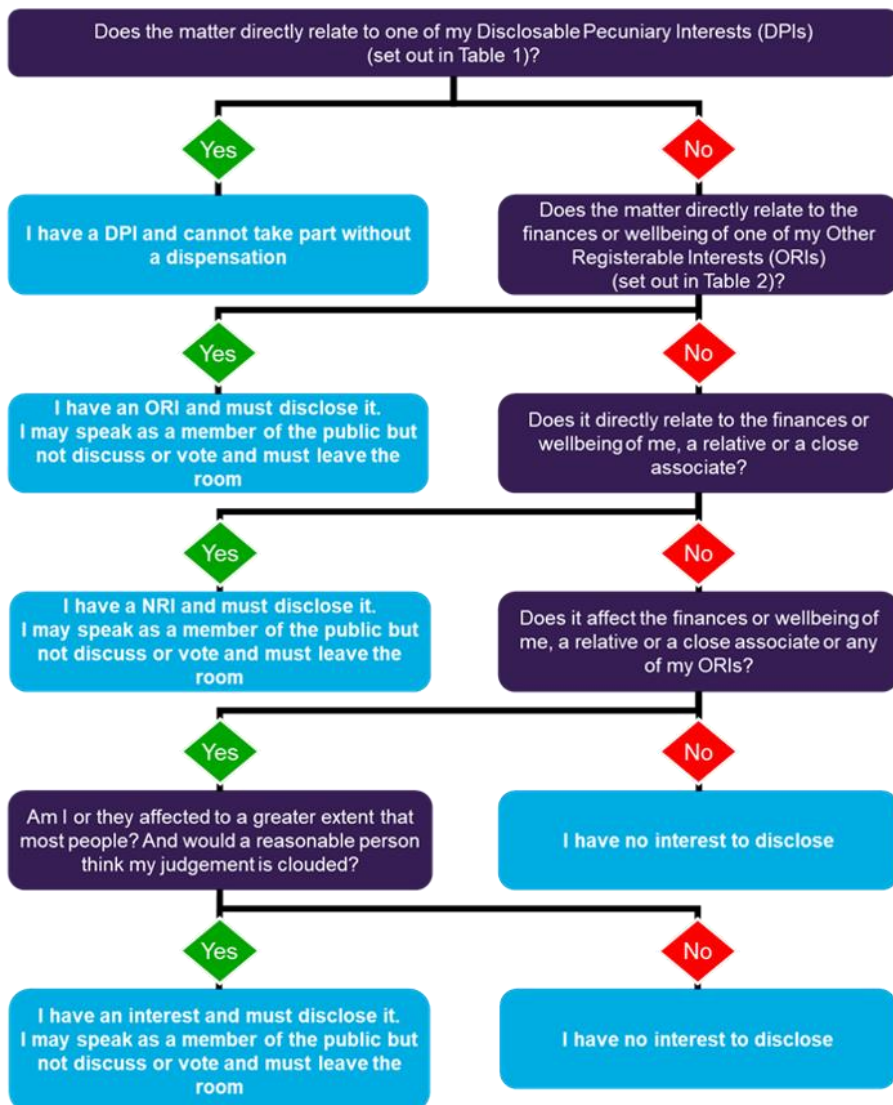


Maintaining and promoting high standards of conduct

Declaring interests at meetings

Familiarise yourself with the Councillor Code of Conduct which can be found in Part 6 of the Council's Constitution.

Before the meeting, read the agenda and reports to see if the matters to be discussed at the meeting concern your interests



What are the principles of bias and pre-determination and how do they affect my participation in the meeting?

Bias and predetermination are common law concepts. If they affect you, your participation in the meeting may call into question the decision arrived at on the item.

Bias Test

In all the circumstances, would it lead a fair minded and informed observer to conclude that there was a real possibility or a real danger that the decision maker was biased?

Predetermination Test

At the time of making the decision, did the decision maker have a closed mind?

If a councillor appears to be biased or to have predetermined their decision, they must NOT participate in the meeting.

For more information or advice please contact the Monitoring Officer
(janie.berry@bcpcouncil.gov.uk)

Selflessness

Councillors should act solely in terms of the public interest

Integrity

Councillors must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships

Objectivity

Councillors must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias

Accountability

Councillors are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this

Openness

Councillors should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing

Honesty & Integrity

Councillors should act with honesty and integrity and should not place themselves in situations where their honesty and integrity may be questioned

Leadership

Councillors should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs

AGENDA

Items to be considered while the meeting is open to the public

1. Apologies

To receive any apologies for absence from Members.

2. Substitute Members

To receive information on any changes in the membership of the Committee.

Note – When a member of a Committee is unable to attend a meeting of a Committee or Sub-Committee, the relevant Political Group Leader (or their nominated representative) may, by notice to the Monitoring Officer (or their nominated representative) prior to the meeting, appoint a substitute member from within the same Political Group. The contact details on the front of this agenda should be used for notifications.

3. Declarations of Interests

Councillors are requested to declare any interests on items included in this agenda. Please refer to the workflow on the preceding page for guidance.

Declarations received will be reported at the meeting.

4. Confirmation of Minutes

7 - 10

To confirm and sign as a correct record the minutes of the meeting held on 24 October 2024.

5. Public Issues

11 - 18

To receive any requests to speak on planning applications which the Planning Committee is considering at this meeting.

The deadline for the submission of requests to speak is 10.00am on Wednesday 20 November 2024 [10.00am of the working day before the meeting]. Requests should be submitted to Democratic Services using the contact details on the front of this agenda.

Further information about how public speaking is managed at meetings is contained in the Planning Committee Protocol for Public Speaking and Statements, a copy of which is included with this agenda sheet and is also published on the website on the following page:

<https://democracy.bcpccouncil.gov.uk/mgCommitteeDetails.aspx?ID=613>

Summary of speaking arrangements as follows:

Speaking at Planning Committee (in person or virtually):

- There will be a maximum combined time of five minutes to speak in objection and up to two persons may speak within the five minutes.

- There will be a further maximum combined time of five minutes to speak in support and up to two persons may speak within the five minutes.
- No speaker may speak for more than half this time (two and a half minutes) UNLESS there are no other requests to speak received by the deadline OR it is with the agreement of the other speaker.

Anyone who has registered to speak by the deadline may, as an alternative to speaking/for use in default, submit a written statement to be read out on their behalf. This must be provided to Democratic Services by 10.00am of the working day before the meeting, must not exceed 450 words and will be treated as amounting to two and a half minutes of speaking time.

Please refer to the full Protocol document for further guidance.

Note: The public speaking procedure is separate from and is not intended to replicate or replace the procedure for submitting a written representation on a planning application to the Planning Offices during the consultation period.

6. **Schedule of Planning Applications**

To consider the planning applications as listed below.

See planning application reports circulated with the agenda, as updated by the agenda addendum sheet to be published one working day before the meeting.

Councillors are requested where possible to submit any technical questions on planning applications to the Case Officer at least 48 hours before the meeting to ensure this information can be provided at the meeting.

The running order in which planning applications will be considered will be as listed on this agenda sheet.

The Chair retains discretion to propose an amendment to the running order at the meeting if it is considered expedient to do so.

Members will appreciate that the copy drawings attached to planning application reports are reduced from the applicants' original and detail, in some cases, may be difficult to read. To search for planning applications, the following link will take you to the main webpage where you can click on a tile (area) to search for an application. The link is:

<https://www.bcpCouncil.gov.uk/Planning-and-building-control/Search-and-comment-on-applications/Search-and-comment-on-applications.aspx>

Councillors are advised that if they wish to refer to specific drawings or plans which are not included in these papers, they should contact the Case Officer at least 48 hours before the meeting to ensure that these can be made available.

To view Local Plans, again, the following link will take you to the main webpage where you can click on a tile to view the local plan for that area. The link is:

<https://www.bcpccouncil.gov.uk/Planning-and-building-control/Planning-policy/Current-Local-Plans/Current-Local-Plan.aspx>

- | | | |
|----|--|---------|
| a) | <p>West Beach Restaurant, Pier Approach, Bournemouth BH2 5AA</p> <p>Bournemouth Central Ward</p> <p>7-2024-19168-R</p> <p>Variation of condition No's 2 and 4 of application 7-2022-19168-Q to allow for extension of temporary permission from 14th of April 2025 to 16th of September 2026 to allow the use of the land for a beach dining area including the installation of seasonal external decking with associated temporary structures and the layout and boundary enclosures to be agreed before the start of each summer by 1st May annually.</p> | 19 - 38 |
| b) | <p>East Undercliff Drive to the right of East Cliff Lift, Bournemouth BH2 5AA</p> <p>East Cliff and Springbourne Ward</p> <p>7-2024-15059-AD</p> <p>Variation/Relief of conditions 1,2 & 10 of application no 7-2023-15059-AA to alter the previous consent for Use of land as a seasonal outdoor event space for serving food and beverages with ancillary structures (Use Class E) and to extend the period of consent until October 2027</p> | 39 - 62 |
| c) | <p>The Prom Diner, Undercliff Drive, Bournemouth BH5 1BN</p> <p>East Cliff and Springbourne Ward</p> <p>7-2024-15059-AE</p> <p>Replacement cladding, installation of balustrade, entrance ramps and associated alterations - Regulation 3</p> | 63 - 74 |

No other items of business can be considered unless the Chair decides the matter is urgent for reasons that must be specified and recorded in the Minutes.

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BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
EASTERN BCP PLANNING COMMITTEE

Minutes of the Meeting held on 24 October 2024 at 10.00 am

Present:-

Cllr P Hilliard – Chair

Cllr M Le Poidevin – Vice-Chair

Present: Cllr C Adams, Cllr A Chapmanlaw (In place of Cllr M Gillett),
Cllr J Clements, Cllr D A Flagg, Cllr G Martin, Cllr Dr F Rice and
Cllr J Salmon

50. Apologies

Apologies were received from Cllr M Gillett, Cllr M Tarling and Cllr L Williams.

51. Substitute Members

Cllr A Chapmanlaw substituted for Cllr M Gillett for this meeting.

52. Declarations of Interests

The following interests were declared by members not on the committee but requesting to speak as ward/other councillors in the public speaking section of the Lower Pleasure Gardens application:

For transparency Cllr S Bartlett declared that he was a director of BH Live and BH Live Enterprises, these appointments being on the public record and published on the Council website. He was appointed to these positions by BCP Council and did not receive any remuneration.

Cllr M Gillett declared that he was Chair of the Lower Central Gardens Trust Board, for which he did not receive any remuneration and this was also published on the Council website.

Once they had addressed the Committee, Cllr Bartlett and Cllr Gillett left the room for the remainder of the meeting.

53. Confirmation of Minutes

The minutes of the meeting held on 26 September were approved as a correct record for the Chair to sign.

54. Public Issues

There were a number of requests to speak on the Lower Pleasure Gardens application which would be dealt with under that item.

55. Schedule of Planning Applications

The Committee considered a planning application report, a copy of which had been circulated and which appears as Appendix to these minutes in the Minute Book. A Committee Addendum Sheet was published on 23 October 2024 and appears as Appendix B to these minutes.

56. Lower Pleasure Gardens, Lower Gardens, Bournemouth, BH1 2AQ

Bournemouth Central ward

7-2024-15898-AO

Temporary installation of winter ice rink with cafe/bar attached (temporary period from 28th October 2024 to 25th January 2025 including the installation and removal of structures).

Public Representations:

Objectors

- ❖ None registered

Applicant/Supporters

- ❖ Simon Smith, applicant

Ward/Other Councillors

- ❖ Cllr Stephen Bartlett, objecting
- ❖ Cllr Matthew Gillett, in support

Resolved to GRANT permission in accordance with the recommendation set out in the officer's report, including the correction in respect of the application number in the Committee Addendum published on 23.10.24, and subject to the following additional condition requested by the Committee:

- **No part of the development hereby permitted shall be made open to any customer unless a scheme for the replanting / reseeded of the land on which the application is situated that seeks to minimise any bare patches within a period of 4 months and make the land suitable for general recreational purposes has first been submitted to and approved in writing by the local planning authority. The approved scheme shall thereafter be accorded with.**

Reason for additional condition – To ensure that suitable measures are in place to address the Committee's concerns around the satisfactory restoration of the land on which the ice rink is situated.

Voting: For – 9, Against – 0, Abstain – 0

The meeting ended at 11.02 am

CHAIR

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PLANNING COMMITTEE - PROTOCOL FOR SPEAKING / STATEMENTS AT PLANNING COMMITTEE

1. Introduction

- 1.1 The following protocol facilitates opportunities for applicant(s), objector(s) and supporter(s) to express their views on planning applications which are to be considered at a Planning Committee meeting. It does not therefore relate to any other item considered at Planning Committee in respect of which public speaking/questions shall only be permitted at the discretion of the Chair.
- 1.2 This protocol is separate from and is not intended to replicate or replace the procedure for submitting a written representation on a planning application to the Council during the consultation period.
- 1.3 **The email address for any person who wishes to register a request to speak and / or submit a statement for the purposes of this protocol or to correspond with Democratic Services on any aspect of this protocol is democratic.services@bcpcouncil.gov.uk**

2. Order of presentation of an application

- 2.1 The running order in which planning applications are heard will usually follow the order as appears on the agenda unless the Planning Committee otherwise determines.
- 2.2 In considering each application the Committee will normally take contributions in the following order:
 - a) presenting officer(s);
 - b) objector(s);
 - c) applicant(s) /supporter(s);
 - d) councillor who has called in an application (who is not a voting member of the Planning Committee in relation to that application) / ward councillor(s);
 - e) questions and discussion by voting members of the Planning Committee, which may include seeking points of clarification.

3. Guidance relating to the application of this protocol

- 3.1 The allocation of an opportunity to speak / provide a statement to be read out at Planning Committee under this protocol is not intended as a guarantee of a right to speak / have a statement read out.
- 3.2 The Chair has absolute discretion as to how this protocol shall be applied in respect of any individual application so far as it relates to the conduct of the

meeting and as provided for in this protocol including whether in any circumstance it should be waived, added to or otherwise modified. This discretion includes the opportunity to speak (or submit a statement), varying the speaking time allowed and the number of speakers. In the event of any uncertainty as to the interpretation or application of any part of this protocol a determination by the Chair will be conclusive.

- 3.3 A failure to make a request to speak / submit a statement in accordance with any one or more of the requirements of this protocol will normally result in the request / submission of the statement not being treated as validly made and therefore not accepted.

4. Electronic facilities relating to Planning Committee

- 4.1. All electronic broadcasting and recording of a Planning Committee meeting by the Council and the provision of an opportunity to speak remotely at such a meeting is dependent upon such matters being accessible, operational and useable during the meeting. As a consequence, a meeting other than a wholly virtual meeting may proceed, including consideration of all applications relating to it, even if it cannot be electronically broadcast, recorded and/or any person is unable to speak / be heard at the time when the opportunity to do so on an application is made available.

5. Attending in person at a Planning Committee meeting / wholly virtual meetings

- 5.1. Unless otherwise stated on the Council's website and/or the agenda Planning Committee will be held as a physical (in person) meeting. A Planning Committee meeting will only be held as a wholly virtual meeting during such time as a decision has been taken by BCP Council that committee meetings of the Council may be held in this way. In the event of there being a discretion as to whether a Planning Committee meeting shall be held as a wholly virtual meeting, then the Head of Planning in consultation with the Chair shall be able to determine whether such a discretion should be applied.

6. Provisions for speaking at Planning Committee (whether in person or remotely)

- 6.1. Any applicant, objector or supporter who wishes to speak at a Planning Committee meeting must register a request to speak in writing with Democratic Services at democratic.services@bcpcouncil.gov.uk by **10.00 am of the working day before the meeting.**
- 6.2. A person registering a request to speak must:
- a) make clear as to the application(s) on which they wish to speak and whether they support or oppose the application; and
 - b) provide contact details including a telephone number and/or email address at which they can be reached / advised that they have been given an opportunity to speak.

- 6.3. There will be a maximum combined time of **five** minutes allowed for any person(s) objecting to an application to speak. A further combined **five** minute maximum will also be allowed for any supporter(s). Up to **two** people may speak during each of these allotted times (the applicant(s) and any agent for the applicant(s) will each count as separate speakers in support). No speaker may speak for more than half this time (i.e. **two and a half minutes**) unless:
- a) there is no other speaker who has also been allotted to speak for the remainder of the five minutes allowed;
 - b) or the other allotted speaker fails to be present or is unable to be heard (in the case of remote speaking), at the Planning Committee meeting at the time when the opportunity to speak on the application is made available; or
 - c) the other allotted speaker expressly agrees to the speaker using more than half of the total speaking time allowed.
- 6.4. If more than two people seek to register a wish to speak for either side, an officer from Democratic Services may ask those seeking the opportunity to speak to appoint up to two representatives to address the Planning Committee. In the absence of agreement as to representatives, entitlement to speak will normally be allocated in accordance with the order when a request was received by Democratic Services. However, in the event of an applicant(s) and / or the agent of the applicant(s) wishing to speak in support of an application such person(s) will be given the option to elect to speak in preference to any other person registered to speak in support.
- 6.5. A person registered to speak may appoint a different person to speak on their behalf. The person registered to speak should normally notify Democratic Services of this appointment prior to the time that is made available to speak on the application.
- 6.6. A person may at any time withdraw their request to speak by notifying Democratic Services by email or in person on the day of that meeting. However, where such a withdrawal is made after the deadline date for receipt of requests then the available slot will not be made available for a new speaker. In cases where more than two requests to speak within the allocated five minutes were received by the deadline, Democratic Services will, where practicable, reallocate the slot in date receipt order.
- 6.7. During consideration of a planning application at a Planning Committee meeting, no question should be put or comment made to any councillor sitting on the Planning Committee by any applicant, objector or supporter whether as part of a speech or otherwise.

7. Questions to person speaking under this protocol

- 7.1. Questions will not normally be asked of any person who has been given the opportunity to speak for the purpose of this Protocol. However, the Chair at their absolute discretion may raise points of clarification.

8. Speaking as a ward councillor or other BCP councillor (whether in person or remotely)

- 8.1. Any ward councillor shall usually be afforded an opportunity to speak on an application at the Planning Committee meeting at which it is considered. Every ward councillor who is given the opportunity to speak will have up to **five** minutes each.
- 8.2. At the discretion of the Chair, any other councillor of BCP Council not sitting as a voting member of the Planning Committee may also be given the opportunity to speak on an application being considered at Planning Committee. Every such councillor will have up to **five** minutes each.
- 8.3. Any member of the Planning Committee who has exercised their call in powers to bring an application to the Planning Committee for decision should not vote on that item but subject to any requirements of the Member Code of Conduct, may have or, at the discretion of the Chair, be given the opportunity to speak in connection with it as a ward councillor or otherwise in accordance with the speaking provisions of this protocol. Such a member will usually be invited after speaking to move themselves from the area where voting members of the Planning Committee are sitting and may be requested to leave the room until consideration of that application has been concluded.

9. Speaking as a Parish or Town Council representative (whether in person or remotely)

- 9.1. A Parish or Town Council representative who wishes to speak as a representative of that Parish or Town Council must register as an objector or supporter and the same provisions for speaking as apply to any other objector or supporter applies to them. This applies even if that representative is also a councillor of BCP Council.

10. Content of speeches (whether in person or remotely) and use of supporting material

- 10.1. Speaking must be done in the form of an oral representation. This should only refer to planning related issues as these are the only matters the Planning Committee can consider when making decisions on planning applications. Speakers should normally direct their points to reinforcing or amplifying planning representations already made to the Council in writing in relation to the application being considered. Guidance on what constitutes planning considerations is included as part of this protocol. Speakers must take care to avoid saying anything that might be libellous, slanderous, otherwise abusive to

any person or group, including the applicant, any officer or councillor or might result in the disclosure of any personal information for which express consent has not been given.

- 10.2. A speaker who wishes to provide or rely on any photograph, illustration or other visual material when speaking (in person or remotely) must submit this to Democratic Services **by 12 noon two working days before the meeting**. All such material must be in an **electronic** format to be agreed by Democratic Services and will usually be displayed on the speaker's behalf by the presenting officer. The maximum number of slides to be displayed must not exceed **five**. Material provided after this time or in a format not agreed will not be accepted. The circulation or display of hard copies of such material at the Planning Committee meeting itself will normally not be allowed. In the interests of fairness, any material to be displayed must have already been submitted to and received by the Council as part of a representation/submission in relation to the application by the date of agenda publication for that Planning Committee meeting.
- 10.3. The ability to display material on screen is wholly dependent upon the availability and operation of suitable electronic equipment at the time of the Planning Committee meeting and cannot be guaranteed. Every person making a speech should therefore ensure that it is not dependent on such information being displayed.

11. Remote speaking at Planning Committee

- 11.1. In circumstances where the Council has put in place electronic facilities which enable a member of the public to be able to speak remotely to a Planning Committee meeting, a person may request the opportunity to speak remotely via those electronic facilities using their own equipment. In circumstances other than a wholly virtual meeting this would be as an alternative to attending the meeting in person. The provisions of this protocol relating to speaking at Planning Committee shall, unless the context otherwise necessitates, equally apply to remote speaking.
- 11.2. The opportunity to speak remotely is undertaken at a person's own risk on the understanding that should any technical issues affect their ability to participate remotely the meeting may still proceed to hear the item on which they wish to speak without their participation.
- 11.3. A person attending to speak remotely may at any time be required by the Chair or the Democratic Services Officer to leave any electronic facility that may be provided.

12. Non-attendance / inability to be heard at Planning Committee

- 12.1. It is solely the responsibility of a person who has been given an opportunity to speak on an application at a Planning Committee meeting (whether in person or remotely) to ensure that they are present for that meeting at the time when an opportunity to speak is made available to them.
- 12.2. A failure / inability by any person to attend and speak in person or remotely at a Planning Committee meeting at the time made available for that person to speak on an application will normally be deemed a withdrawal of their wish to

speaking on that application. This will not therefore usually be regarded as a reason of itself to defer or prevent an application from being heard.

- 12.3. This protocol includes provisions enabling the opportunity to provide a statement as an alternative to speaking in person / as a default option in the event of a person being unable to speak at the appropriate meeting time.

13. Submission of statement as an alternative to speaking / for use in default

- 13.1. A person (including a councillor of BCP Council) who has registered to speak, may submit a statement to be read out on their behalf as an alternative to speaking at a Planning Committee meeting (whether in person or remotely).
- 13.2. Further, any person speaking on an application at Planning Committee may, at their discretion, additionally submit a statement which can be read out as provided for in this protocol in the event of not being able to attend and speak in person or remotely at the time when an opportunity is made available for that person to speak on the application. The person should identify that this is the purpose of the statement.

14. Provisions relating to a statement

- 14.1 Any statement submitted for the purpose of this protocol:
- a) must not exceed **450** words in total unless the statement is provided by a ward councillor or any other councillor who is not voting on the application under consideration in which case the statement may consist of up to **900** words;
 - b) must have been received by Democratic Services by **10.00am of the working day before the meeting** by emailing democratic.services@bcpcouncil.gov.uk
 - c) when submitted by a member of the public (as opposed to a councillor of BCP Council), will be treated as amounting to **two and a half minutes** of the total time allotted for speaking notwithstanding how long it does in fact take to read out;
 - d) must not normally be modified once the deadline time and date for receipt of the statement by Democratic Services has passed unless such modification is requested by an officer from Democratic Services; and
 - e) will normally be read out aloud by an officer from Democratic Services having regard to the order of presentation identified in this protocol.
- 14.2 A person who has been given the right to speak and who has submitted a statement in accordance with this protocol may at any time withdraw that statement prior to it being read out by giving notice to Democratic Services. Where such withdrawal occurs after the deadline date for registering a request to speak has passed, then a further opportunity for a statement to be submitted will not be made available. If the statement that has been withdrawn was submitted as an alternative to speaking, then if the person

withdrawing the statement wishes instead to exercise their opportunity to speak in person they should notify Democratic Services on or before the time of withdrawing the statement.

15. Assessment of information / documentation / statement

- 15.1. BCP Council reserves the right to check any statement and any information / documentation (including any photograph, illustration or other visual material) provided to it for use at a Planning Committee meeting and to prevent the use of such information / documentation in whole or part, in particular, if it:
- a) is considered to contain information of a kind that might be libellous, slanderous, abusive to any party including an applicant or might result in the disclosure of any personal information for which express consent has not been given; and / or
 - b) is identified as having anything on it that is considered could be an electronic virus, malware or similar.
- 15.2 The Head of Planning in consultation with the Chair shall have the absolute discretion to determine whether any such statement / information / documentation should not be used / read out in whole or part. If circumstances reasonably permit, Democratic Services may seek to request a person modify such statement / information / documentation to address any issue identified.

16. Guidance on what amounts to a material planning consideration

- 16.1. As at the date of adoption of this protocol, the National Planning Portal provides the following guidance on material planning considerations:

“A material consideration is a matter that should be taken into account in deciding a planning application or on an appeal against a planning decision. Material considerations can include (but are not limited to):

- *Overlooking/loss of privacy*
- *Loss of light or overshadowing*
- *Parking*
- *Highway safety*
- *Traffic*
- *Noise*
- *Effect on listed building and conservation area*
- *Layout and density of building*
- *Design, appearance and materials*
- *Government policy*
- *Disabled persons' access*
- *Proposals in the Development Plan*
- *Previous planning decisions (including appeal decisions)*
- *Nature conservation*

However, issues such as loss of view, or negative effect on the value of properties are not material considerations.”

https://www.planningportal.co.uk/faqs/faq/4/what_are_material_considerations#:~:text=A%20material%20consideration%20is%20a,Loss%20of%20light%20or%20overshadowing

Note

For the purpose of this protocol:

- (a) reference to the “Chair” means the Chair of Planning Committee and shall include the Vice Chair of Planning Committee if the Chair is at any time unavailable or absent and the person presiding at the meeting of a Planning Committee at any time that both the Chair and Vice Chair of Planning Committee are unavailable or absent;
- (b) reference to the Head of Planning includes any officer nominated by them for the purposes of this protocol and if at any time the Head of Planning is unavailable, absent or the post is vacant / ceases to exist, then the Development Management Manager or if also unavailable / absent or that post is vacant/no longer exists then the next most senior officer in the development management team (or any of them if more than one) who is first contactable;
- (c) reference to ‘ward councillor’ means a councillor in whose ward the application being considered at a meeting of Planning Committee is situated in whole or part and who is not a voting member of the Planning Committee in respect of the application being considered; and
- (d) a “wholly virtual meeting” is a Planning Committee meeting where no one including officers and councillors physically attend the meeting; however, a meeting will not be held as a “wholly virtual meeting” unless legislation permits

Adopted by the Planning Committee on 17.11.22 and updated on 20.7.23



Planning Committee

Application Address	West Beach Restaurant, Pier Approach, Bournemouth, BH2 5AA
Proposal	Variation of condition No's 2 and 4 of application 7-2022-19168-Q to allow for extension of temporary permission from 14th of April 2025 to 16th of September 2026 to allow the use of the land for a beach dining area including the installation of seasonal external decking with associated temporary structures and the layout and boundary enclosures to be agreed before the start of each summer by 1st May annually
Application Number	7-2024-19168-R
Applicant	WESTBEACH
Agent	Mr Matt Annen
Ward and Ward Member(s)	Bournemouth Central Councillor Hazel Allen Councillor Jamie Martin
Report Status	Public
Meeting Date	21 November 2024
Recommendation	GRANT
Reason for Referral to Planning Committee	Referred by the Director of Planning and Transport because BCP Council is the landowner
Case Officer	Steve Davies
Is the proposal EIA Development?	No

Description of Development

- 1 Planning permission is sought for the Variation of conditions 2 and 4 of application 7-2022-19168-Q. This would extend the period of the temporary permission from 14th of April 2025 to 16th of September 2026 to include the following two summer seasons and would also allow more flexibility to review the design and layout each summer. The current planning permission requires agreement on the layout and screening for all future summers whereas the applicant would like the opportunity to review the appearance from one year to another rather than agreeing a layout which would need to be exactly repeated the following year. As

this is an application to vary condition on a previous permission the applicant is relying on the same drawing and documents previously approved.

- 2 Application 7-2022-19168-Q comprised '*Part retrospective application to erect seasonal external decking with associated temporary structures and enclosed beach dining area*' and was approved on 24 March 2023.

- 3 Conditions 2 and 4 read as follows:

Condition 2:

This permission is limited to the period expiring on 14 April 2025. Immediately on the expiry of that period the structures hereby permitted shall be removed and the site shall be left in a clean and tidy condition on or before 14 April 2025 to the satisfaction of the Local Planning Authority.

Reason: The temporary nature of the materials used in the construction of the structures make it unsuitable for permanent permission and in accordance with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

Condition 4:

Within 1 month from the date of this approval a scheme to screen the back of house area with art work and/or other screening shall be submitted to and approved in writing by the Council. The scheme shall include agreement on design and materials. The approved scheme shall be implemented in full and shall remain in place and be maintained whilst the temporary structures are in place on the deck.

Reason: The temporary structures are inappropriate without suitable screening in accordance with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

Description of Site and Surroundings

- 4 Seafront and beach location. In front of existing long-standing West Beach Café immediately to the west of Bournemouth Pier.

Relevant Planning Applications and Appeals:

- 5 The following more recent applications:

- 7-2022-19168-Q: Part retrospective application to erect seasonal external decking with associated temporary structures and enclosed beach dining area. Granted: 24 March 2023
- 7-2020-19168-P: Construction of temporary and removable decking on beach and erection of four floodlights - Existing unauthorised. Granted: 14 April 2020
- 7-2017-19168-O: Erection of 1.8m high paladin fencing and gated access. Refused: 24 November 2017
- 7-2015: Construction of temporary and removable decking on beach and erection of two floodlights - Existing unauthorised. Granted: 23 June 2015

- 7-2011-19168-M: Construction of temporary and removable decking on beach and erection of two floodlights - Renewal of expired temporary consent (app no. 7/2007/19168/K). Granted: 4 August 2011
- 7-2007-19168-K: Construction of temporary and removable decking on beach and erection of two floodlights - Renewal of temporary consent (app no. 7/2001/19168/J). Granted: 9 January 2008
- 7-2004-19168-J: Construction of temporary and removable decking on beach and erection of two floodlights - Renewal of temporary consent (app no. 7/2001/19168/F). Granted: 1 December 2004
- 7-2004-19168-I: Erection of bin store - Renewal of application 7/2002/19168/G. Granted: 15 June 2004
- 7-2004-19168-H: Part relief of Condition No. 1 of application no: 7/2001/19168/F that the decking should be removed from 1st November to 31st March. Granted: 15 January 2003

Constraints

- 6 The following constraints have been identified.
- Flood zone 3;
 - The beach has an open space allocation and falls within the remit of policy CS31.
 - Town Centre Area Action Plan – Central Zone policy U8

Public Sector Equalities Duty

- 7 In accordance with section 149 Equality Act 2010, in considering this proposal due regard has been had to the need to —
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Other relevant duties

- 8 In accordance with section 40 Natural Environment and Rural Communities Act 2006, in considering this application, regard has been had, so far as is consistent with the proper exercise of this function, to the purpose of conserving biodiversity.
- 9 For the purposes of this application, in accordance with section 17 Crime and Disorder Act 1998, due regard has been had to, including the need to do all that can reasonably be done to prevent, (a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); (b) the misuse of drugs, alcohol and other substances in its area; and (c) re-offending in its area. In this case the site will be subject to normally licencing conditions which would help to control and anti-social behaviour.
- 10 For the purposes of this report regard has been had to the Human Rights Act 1998, the Human Rights Convention and relevant related issues of proportionality.

Consultations

- 11 Environment Agency – there was no objection to the previous permission on the basis that a Flood Warning and Evacuation Plan will be in place and operated by and in accordance with the Council's Seafront Operations Management.
- 12 Council Tourism Team – the application is promoted by the Tourism Team. They have not commented as a consultee.
- 13 BCP Coastal Engineers (Flood and Coastal Erosion Risk Management) – *“As this is to extend the application for two summers (2025 and 2026) adhering to the previously approved conditions which reflect the coastal risk management issues for this site, we have no problem with this being granted from a flood & coastal risk management perspective.”*
- 14 Biodiversity Officer – previous comments regarding lighting and effect on bats dealt with by condition set out below. The proposal is also exempt from Biodiversity Net Gain (BNG), as confirmed by the biodiversity officer, as the decking has already been established previously covering natural areas and as this part of the beach does not contain important grasses.

Representations

- 15 Site notices were posted in the vicinity of the application site with an expiry date for consultation of 18/9/24.
- 16 An objection has been received from the Meyrick Estate setting out the following concerns.

1) Loss of a designated public open space area to a commercial activity:

The proposed Beach Restaurant/Bar will be located on a sandy area of the beach which is designated public open space. Policy CS31 of the Bournemouth Core Strategy (2012) advocates against developments that results in the loss of public open space. Furthermore, the size and bulk of the beach bar is not in keeping with the natural area.

2) Environmental Concerns: Littering and Ocean Pollution

The Bournemouth Core Strategy (2012) highlights the importance of minimising pollution under Policy CS38. A beach restaurant/bar of this size will create noise that would be unwelcome to other beach users. Littering along Bournemouth beaches is already a significant problem, and takeaway sales will exacerbate this issue.

Key Issues

- 17 The main considerations involved with this application are:
- Principle of the use on and loss of open space
 - Impact on character and appearance of the area;
 - Impact on amenity;
 - Impact on the coastal engineering and flood risk;
 - Biodiversity.
- 18 These points will be discussed as well as other material considerations below.

Planning Policy Context

- 19 **Bournemouth Local Plan Core Strategy (2012)**

CS1: NPPF and Sustainable Development
CS4: Surface Water Flooding
CS6: Delivering Sustainable Communities
CS7: Bournemouth Town Centre
CS18: Increasing Opportunities for Cycling and Walking
CS29: Protecting Tourism and Cultural Facilities
CS30: Green Infrastructure
CS31: Recreation, Play and Sports
CS38: Minimising Pollution
CS41: Quality Design

20 Bournemouth Town Centre Area Action Plan (2013)

Policy D4: Design Quality
Policy U7: Cafes and restaurants
Policy U8: TC central area for tourism uses
Policy U9: Evening and night time uses

21 Bournemouth District Wide Local Plan (2002)

Policy 3.28: Flooding

22 Supplementary Planning Documents:

Public Realm Strategy: Guiding Principles – SPD

23 Other

The Seafront Strategy is a corporate policy. It does not form part of the Statutory Development Plan but is a key Council objective. It supports the visitor experience stretching between the West Cliff and Boscombe Pier by developing a coherent and consistent linear promenade space to create an ultimate vibrant beachfront and also supports investment in utilities, public toilets and infrastructure to support the development of new pop-up leisure, cafes, restaurants, bars, cultural attractions and eventing space between Bournemouth and Boscombe Piers. Cabinet recently reviewed the strategy and regarding this area the following priority was agreed.

Enable diverse and vibrant seasonal sports, leisure and food & beverage offers that sympathetically enhance the public amenity and open space, with a particular focus between West Cliff and Boscombe Pier.

The Seafront Visitor Survey (2023) supports the public views around investment in food and drink offers.

24 The National Planning Policy Framework (2023)

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and is a material consideration in planning decisions.

Including the following relevant paragraphs:

Section 2 – Achieving Sustainable Development;

Paragraph 11 –

“Plans and decisions should apply a presumption in favour of sustainable development.

For **decision-taking** this means:

- (c) approving development proposals that accord with an up-to-date development plan without delay; or
- (d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of this Framework taken as a whole.”

Section 6 – Building a strong, competitive economy;

Section 7 – Ensuring the vitality of town centres;

Section 8 – Promoting healthy and safe communities;

Section 12 – Achieving well-designed spaces;

Section 14 – Meeting the challenge of climate change, flooding and coastal change;

Section 15 – Conserving and enhancing the natural environment.

Emerging Local Plan

- 25 The draft BCP Local Plan was submitted to the Secretary of State on 27 June 2024 for examination. The Local Plan examination is expected to take around 12 months. If approved by the Inspectors, the Local Plan will replace the current Local Plans around the middle of 2025. Due to the stage the Plan has reached, the majority of policies are attracting very limited weight at this time.

Planning Assessment

Principle of development

- 26 The general principles of the core strategy seek to ensure sustainable communities through good quality development, support for tourism and protecting spaces for recreation, walking and general enjoyment. The application site lies within the Town Centre and policy CS7 (Bournemouth Town Centre) indicates that this is the most appropriate location for *...retail, cultural, leisure and business uses....* Development proposals should maintain and enhance the function of the town centre, and it is considered that the current proposal meets this criteria.
- 27 Policy CS31 (Recreation, Play and Sports) states that planning permission will be refused for development that results in the loss of public and private open space. This is a key policy for the protection of public open space. However, it is considered that the proposal would not result in the permanent loss of a significant amount open space. Although the smaller decking area remains during the winter period this is not considered to be a significant area in terms of the entire beach area and during a time when there are fewer people enjoying

sunbathing and playing on the sand. This can be balanced against the benefits of having a facility that people can enjoy as another key issue is the economy and the tourism function.

- 28 On the basis of the above, the proposal is considered to be in general accordance with policy CS31 in so far as loss of open space. Whilst the proposal has an impact on the open space it is considered that the temporary loss in the summer period of the space is not significant and would not result in the proposal being contrary to this policy. As set out above the Council has reviewed its Corporate Seafront Strategy. Whilst this is not a planning policy it does set out a requirement that proposals should “sympathetically enhance the public amenity and open space”. It is considered that the previous approvals on this site have always had regard to this matter and in the circumstances the open space policy would not be compromised.
- 29 The proposal would support tourism as set out in policy CS29 (Protecting Tourism and Cultural Facilities). Food and beverage outlets have always been located on the beach front together with the shopping areas in the retail centres offering a different and complementary offering.
- 30 On the basis of the above the proposal is considered acceptable in principle and is also in accordance with policy CS6 (Delivering Sustainable Communities) by maintaining a balance in development opportunities whilst protecting key facilities. The Town Centre Area Action Plan and the Emerging BCP Local Plan have similar policies to promote sustainable development, support the economy and protect amenity.

Impact on character and appearance of the area

- 31 West Beach restaurant is located to the west of Bournemouth Pier and since the introduction of a decking area on the beach in 2001, has been able to offer outdoor dining. Temporary permission for the decking area was last renewed in 2023 and at that time the deck was made larger and a refreshment area on the sand was expanded beyond the original deck. The applicant is now seeking planning permission to keep using this entire area as part of his expanded operation for a further two summers. Renewed temporary permissions have been granted here over many years, in order to retain a degree of control over the impact of the proposal, particularly as it is a temporary structure located in a vulnerable coastal position. It is considered that generally the decking area contributes to the tourist function of the seafront area and during the summer period enhances and complements the character and appearance of this area. It has now become an established feature of this part of the beach.
- 32 However, this proposal differs from the other recent approvals on the beach as there are more structures and during the winter period the decking is retained although most of the structures apart from the deck support/barrier structures are removed. It is considered that this part of the beach has a different character to the remoter areas, and it is reasonable to allow a more intensive operation during the summer and to allow the decking to remain during the winter when there are many visitors still about. This area is close to the pier and pier precinct which is a busy hotspot in the summer and is still bustling during the winter months.
- 33 One of the main concerns has been the provision of container structures as these are sited on the beach rather than promenade and as such, they will be more visually intrusive as the beach/ sand is normally an open space. Also, as it includes a toilet block and storage buildings the visual impact is potentially poor as they are utilitarian structures and are different to the serveries. However, the applicant has screened these structures with fencing

and a pergola. The proposed variation to condition 4 below would also for the design to be reviewed from last year and agreed for future years.

- 34 As mentioned, in the summer when the beach is busy with lots of tourists and there is other paraphernalia on the beach, the proposal is considered acceptable as the area is full of people and the beach has many other structures including visitors with wind breaks etc. Whilst this might not be acceptable on other parts of the beach, it is considered that this area close to the pier could accept some structures on the beach. Nevertheless, during the winter when the outdoor dining area is less used it would be more intrusive, especially when not used for long periods and therefore it is recommended that from the period of September 16th until the following May 1st most of the structures apart from the deck are removed.
- 35 As the decking is a temporary type of structure made of a non-permanent material and described as such by the applicant, it is considered still appropriate to continue to issue a temporary permission. The decking area is principally made of timber and supported on a scaffold type frame hidden by timber casing. Although the appearance of the decking is considered acceptable at the moment, it could become untidy and unsightly overtime. This is a particularly prominent and important location, and it is considered appropriate to issue a further temporary permission of only two summers. This would allow a degree of control over the proposed development, should the appearance of the decking and ancillary structures deteriorate. At the present time because of the success of the beach replenishment and groynes the understorey structure of the decking is largely buried in sand. However, this could change with winter storms in the future. It also gives the Council the opportunity to review their beach strategy in the future.
- 36 On the basis of the above, subject to the planning conditions as outlined, the proposal is considered to accord with planning policy CS41 in respect of design and visual amenity.

Impact on amenity

- 37 The proposal is likely to increase activity to the area with more people coming and going from the site and creating a potentially livelier 'party' atmosphere especially during the summer. However, there are no immediate residential properties, and the use would operate when the seafront area is busy during normal daytime and evening hours mostly. The nearest residential properties are an acceptable distance away such that they are unlikely to be affected by noise and disturbance in this busy town centre location, and the development would not be visually intrusive or overbearing to them. Many of the Town Centre restaurants and beach operations have alfresco dining so this is commonplace. The representation from the Meyrick Estate has raised concern with the effect of noise and disturbance to other beach users. However, this location will already be relatively busy during the summer period with a throng from other beach users with children playing and listening to music. Therefore, it is considered that on this part of the beach the proposal wouldn't significantly harm amenity.
- 38 On the quieter parts of the beach an 11.00pm closure has been imposed. However, in this location in the heart of the tourism area close to the BIC and other late night operations it has not in the past been considered appropriate to impose a restriction. The site will be subject to licencing control that would regulate any statutory nuisance. On this basis, it is considered that the proposal wouldn't cause harm to amenity and would accord with planning policies CS38 and CS41 of the Bournemouth Core Strategy.

Impact on the coastal engineering and flood risk

- 39 The application site is located in flood zone 3. The proposal, to facilitate an outdoor seating area, could be classed as a 'Water Compatible' use (NPPF Annex 3) (outdoor sports and recreation) and on this basis would not require the submission of a Flood Risk Sequential Test to determine alternative sites but a Flood Risk Assessment is required. The NPPF in paragraph 174 states – "Applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote 59". There is some conjecture about whether the structures themselves are buildings although as they are clearly temporary and are easily moveable it is not considered that they need to follow the sequential test. However, a Flood Risk Assessment is required. It is also noted that buildings for restaurants and cafes are classified as a less vulnerable use are also appropriate development in flood zone 3a.
- 40 Previous proposals have been considered acceptable having regard to issues of flood risk and whilst the Environment Agency have not responded, their approach has been the same for all the beach pop ups in that provided a flood risk plan is in place the proposal is acceptable. The Councils own flood risk advisors are satisfied with the proposal, and it is considered that the proposal is for a Water compatible use.
- 41 The Councils engineers have been consulted in respect of impact on coastal infrastructure and do not object as the proposal has previously been approved and accords with the criteria required under the lease for beach structures to control potential damage to the sea wall. Importantly there are no fixings to the sea wall allowed and this is confirmed in the application.
- 42 On the basis of the above, the proposal is considered acceptable and compliant with general flooding criteria set out by the Environment Agency and policy CS4 of the Bournemouth Core Strategy document.

Biodiversity

- 43 Statutory Biodiversity Net Gain does not apply in this instance because this is a Section 73 application relating to a permission which pre-dates Biodiversity Net Gain (application 7-2022-19168-Q was dated 23 November 2022 and Biodiversity Net Gain became mandatory for minor developments on 2 April 2024). In this regard, transitional arrangements apply to variations of existing planning permissions as confirmed by paragraph 3 of the NPPG:

'Biodiversity net gain does not apply to:

- retrospective planning permissions made under section 73A; and*
- section 73 permissions where the original permission which the section 73 relates to was either granted before 12 February 2024 or the application for the original permission was made before 12 February 2024'.*

- 44 Further, as set out above the Biodiversity Officer does not object to these facilities but a condition about lighting could be included to ensure that foraging bats are not disturbed by any bright lighting. Accordingly, the proposal is considered to be acceptable and compliant with policy CS30.

Summary

- 45 As set out above it is considered that the proposal is acceptable on the basis that;

- It is a renewal of an established feature on the beach;
- There is unlikely to be any harm to amenity;
- The Council has approved several other similar decks on the beach to support the tourism function;
- Any loss of open space is not significant;
- Exempt from Biodiversity Net Gain.

Planning Balance / Conclusion

- 46 Many of the core strategy policies and specifically CS6 and CS31 seek to ensure sustainable communities through good quality development, supporting tourism and protecting spaces for recreation, walking and general enjoyment. Whilst the application site is located on open space it also contributes to the seafront tourism offer and its appearance at present does not downgrade the seafront provided most of the structures are removed during the winter period.
- 47 Therefore, having considered the appropriate development plan policy and other material considerations, including the NPPF, it is considered that subject to compliance with the conditions attached to this permission, the development would be in accordance with the Development Plan, would not materially harm the character or appearance of the area or the amenities of neighbouring and proposed occupiers and would be acceptable in terms of traffic safety and convenience. The Development Plan Policies considered in reaching this decision are set out above.

Recommendation

- 48 **GRANT** with the following conditions;

1. Development to be carried out in accordance with plans as listed

The development hereby permitted shall be carried out in accordance with the following approved plans:

Site plan, Location plan, P01, P05A, P06C, P07C, P08C, P11B, P12 PO 5 rev B

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

2. Temporary permission expiring

On or before the 16 September 2026 the use of the land as a beach dining and bar area including decking and supporting structures, containers and fencing and any other temporary structures within the area identified on drawing number PO 5 rev B shall cease and all structures and equipment shall be removed in their entirety and the land restored to its condition before the development hereby permitted took place (as part of the open beach).

Reason: The temporary nature of the materials used in the construction of the structures make it unsuitable for permanent permission and in accordance with policies CS31 and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012) and policy D4 of the Bournemouth Town Centre Area Action Plan (March 2013).

3. External Lighting

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modification) no floodlighting shall be installed on any part of the application site as shown on approved plan PO 5 rev B thereon edged in red. Any external lighting shall be directional to only illuminate the area of seating and lighting to be compliant with 'GN08/23 Bats and Artificial Lighting at Night' by Institution of Lighting Professionals, that is: luminaires to have colour temperature less than 2700 K, with peak wavelengths no greater than 550nm.

Reason: In the interests of visual amenity and given the site location on the beach all to accord with policies CS31 and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012) and policy D4 of the Bournemouth Town Centre Area Action Plan (March 2013) and in accordance with National Planning Policy Framework (2023) paragraph 174 "Planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity"

4 Prior Agreement on layout and screening

Notwithstanding the details shown on the approved plans and any previously agreed layouts a scheme shall be submitted to the Council to agree the screening to the back of house area with art work and/or other cladding/screening and details of a scheme for the other enclosures of the development and the site layout including all structures, shall also be submitted to and approved in writing by the Local Planning Authority before the implementation of the use on the of 1st May each year to which this permission relates. The site shall be laid out in accordance with the approved scheme for that season and the approved scheme shall not be modified during the season without the further written consent of the Council.

Reason: The temporary structures proposed are inappropriate without suitable screening/ enclosure and to ensure the layout is acceptable in visual amenity terms in accordance with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

5. Removal of structures outside of summer season

Apart from the existing decking area all other structures excluding tables and chairs shall be removed from site (and not stored on the roof of the main café building or promenade) between the period of 16 September until the following 1 May annually.

Reason: The temporary nature of the materials used in the construction of the structures make it unsuitable for permanent permission and in accordance with policies CS31 and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012) and policy D4 of the Bournemouth Town Centre Area Action Plan (March 2013).

6. Flood risk management and emergency evacuation plan

The previously agreed flood risk management plan submitted with the previous application reference no 7-2022-19168-Q shall be adopted each season, and this shall be followed in full at all times.

Reason: To ensure the safety of customers and staff and in accordance with saved Policy 3.28 of the Bournemouth District Wide Local Plan (2002).

7. Waste condition

Prior to the use hereby approved commencing, a waste management plan including a plan for litter management shall be submitted to and approved in writing by the Local Planning Authority. The approved waste management plan shall be accorded with at all times unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development includes a management plan for the collection of refuse in the interests of visual and residential amenities, and to accord with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

Informative Note:

The applicant is advised that as per the standing guidance, it is the owners responsibility to clear any damage that may arise to their structures as part of storms, and that if they do fix any part to the seawall that they are liable for repairs in the event of any damage (during installation, operation, removal or through storm damage from this fixing).

Informative Note: This permission does not convey consent in respect of any advertising on the premises, for which a separate application under the Town and Country Planning (Control of Advertisements)(England)Regulations, 2007 (or any subsequent Order or Regulations revoking or re-enacting these Regulations with our without modification) may be necessary.

Statement required by National Planning Policy Framework

In accordance with paragraph 38 of the revised NPPF the Council takes a positive and proactive approach to development proposals focused on solutions. The Council work with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service,
- as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions,

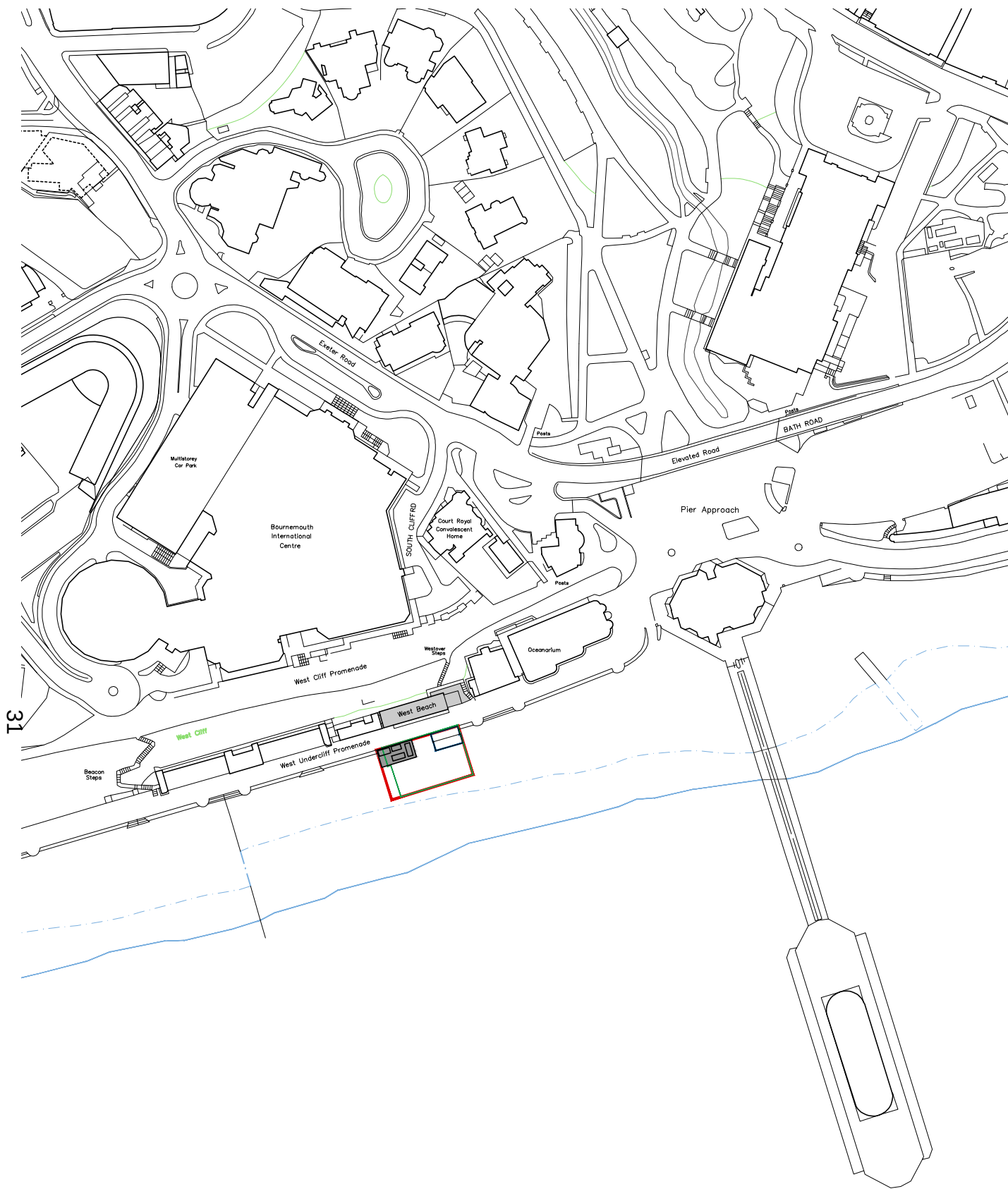
In this instance:

the applicant was not provided with pre-application advice, but the application was dealt with following discussions with the applicant and subsequent amendments.

Background Documents:

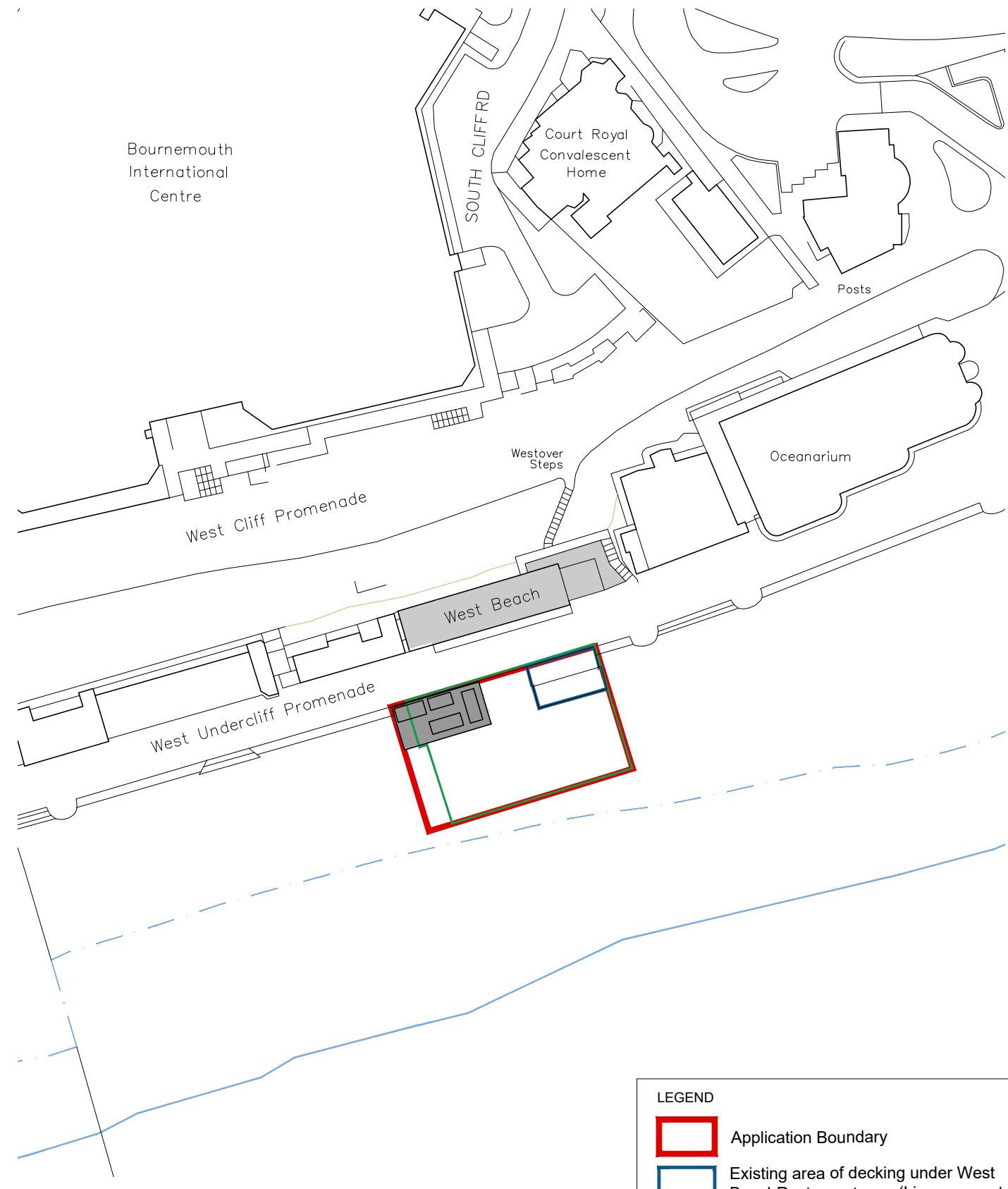
Documents uploaded to that part of the Council's website that is publicly accessible and specifically relates to the application the subject of this report including all related consultation responses, representations and documents submitted by the applicant in respect of the application.

Notes. This excludes all documents which are considered to contain exempt information for the purposes of Schedule 12A Local Government Act 1972. Reference to published works is not included.



Site Location Plan
1:2500 @ A3

0 50 100 150m
Scale 1:2500



Proposed Block Plan
1:1000 @ A3

0 10 20 30 40 50m
Scale 1:1000

LEGEND

- Application Boundary
- Existing area of decking under West Beach Restaurant use (License granted Feb 2014)
- Beach Area within West Beach use (License granted Feb 2022)
- Mean high tide line
- Mean low tide line

Notes:

- All drawings are subject to Planning and Building Control consent.
- The details shown are for design intent purposes only and are subject to further design development with suppliers and sub-contractors
- Proposals subject to consultation and approval from Local Authority Building Control or an Approved Inspector
- All setting out dimensions should be checked on-site prior to construction and any discrepancies and/or omissions should be reported to the Architect immediately

Rev.	Date	Details
B	24/02/23	Revised Kiosk Layout with roof over
A	23/01/23	Revised Kiosk layout

Drawn	Checked
CE	CE
CE	AH

Drawn By:	Project No:
AH	17090
Date:	Scale:
26.10.22	Varies @A3
Checked By:	Dwg No:
CE	P05
Date:	Rev:
26.10.22	B

Issued for:

PLANNING

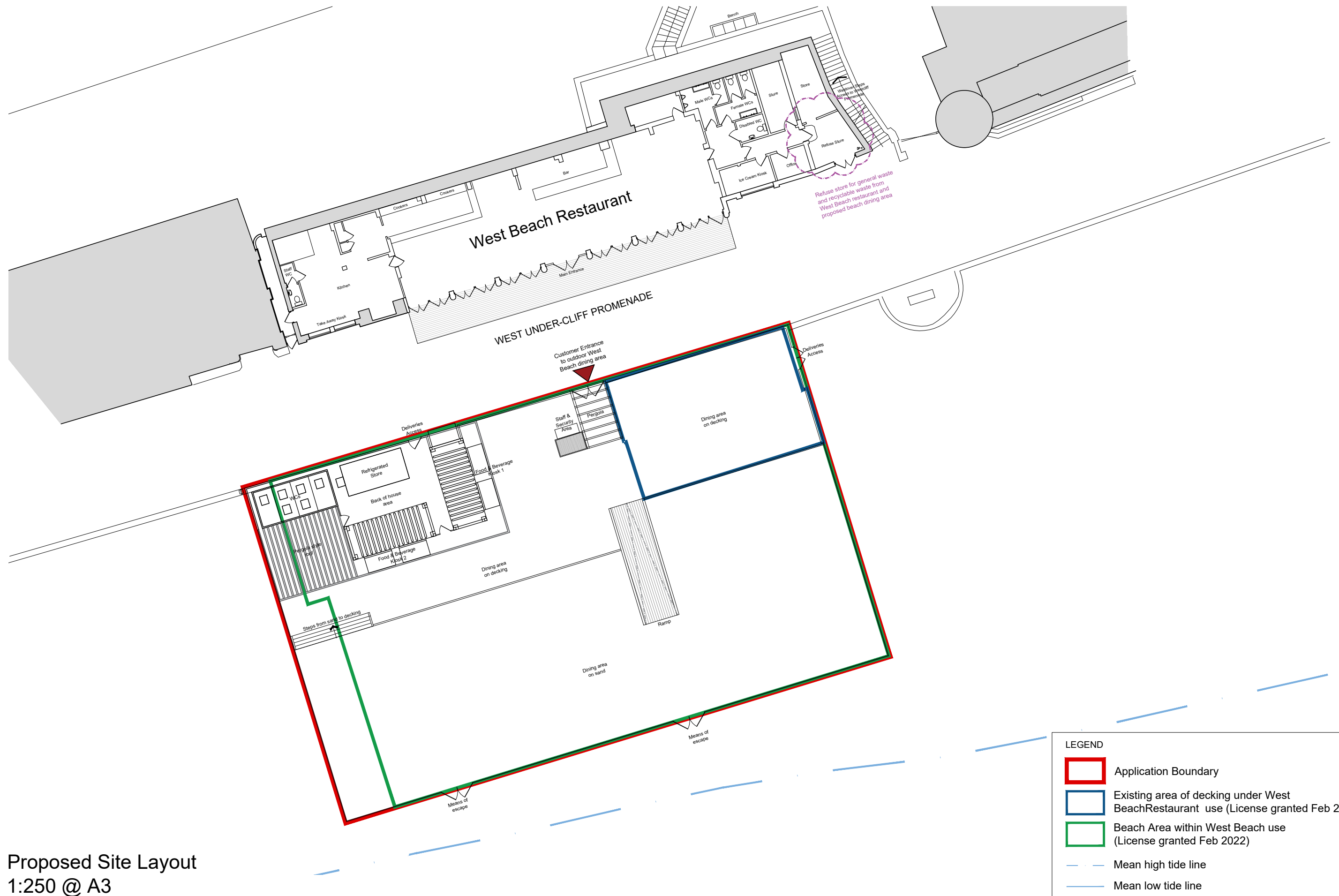
Project/Client: West Beach Bournemouth

Drawing: Site Location Plan & Proposed Block Plan

BrightSPACE
architects

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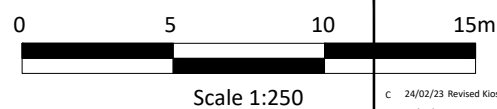


Proposed Site Layout
1:250 @ A3

LEGEND

- Application Boundary
- Existing area of decking under West Beach Restaurant use (License granted Feb 2014)
- Beach Area within West Beach use (License granted Feb 2022)
- Mean high tide line
- Mean low tide line

- Notes:**
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Rev.	Date	Details
C	24/02/23	Revised Kiosk Layout with roof over
B	23/01/23	Revised Kiosk arrangement
A	29/11/22	Annotations added: kiosks, WCs and store

Drawn	Checked
CE	AH
CE	CE

Rev.	Date	Details
C	24/02/23	Revised Kiosk Layout with roof over
B	23/01/23	Revised Kiosk arrangement
A	29/11/22	Annotations added: kiosks, WCs and store

Drawn	Checked
CE	AH
CE	CE

Drawn By: AH
Date: 26.10.22
Checked By: CE
Date: 26.10.22

Project No: 17090
Scale: 1:250 @A3
Dwg No: P06
Rev: C

Issued for:

Project/Client: West Beach Bournemouth

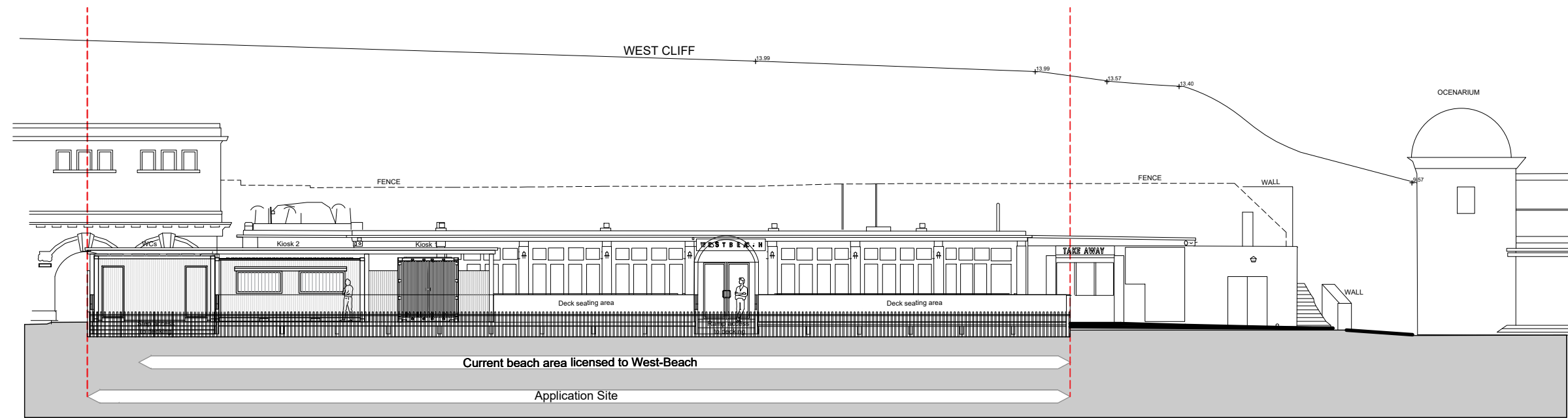
PLANNING

Drawing: Proposed Site Layout

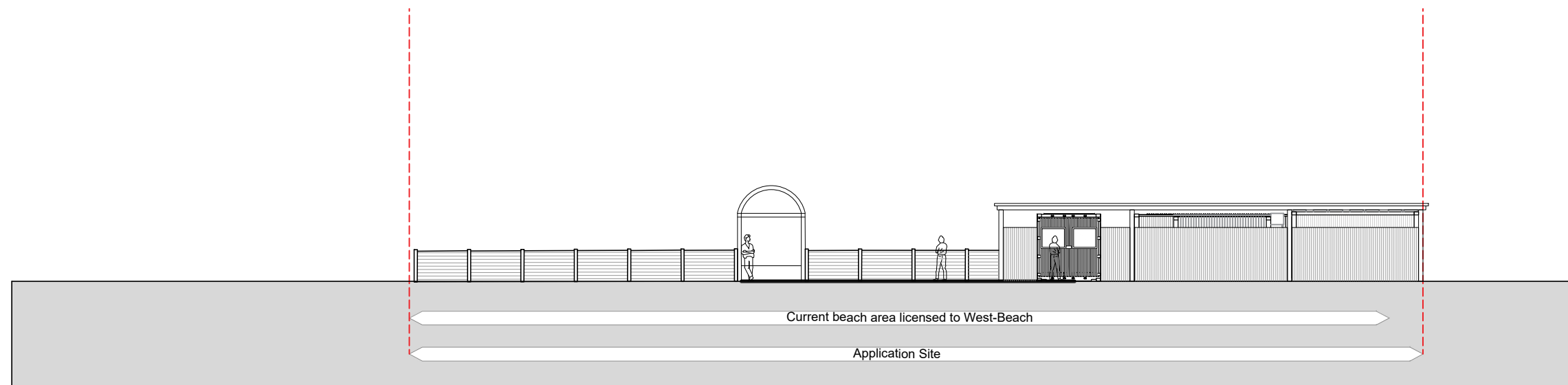
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Proposed South Elevation
1:200 @ A3



Proposed North Elevation of beach area
1:200 @ A3

- Notes:
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 - Proposals subject to consultation and approval from Local Authority Building Control or an Approved Inspector
 - All setting out dimensions should be checked on-site prior to construction and any discrepancies and/or omissions should be reported to the Architect immediately



Rev.	Date	Details	Drawn	Checked
C	24/02/23	Revised Kiosk Layout with roof over	CE	
B	23/01/23	Revised Kiosk position	CE	AH
A	29/11/22	Annotations added: kiosk 1 and 2 and WC/ Store	CE	
Rev.	Date	Details	Drawn	Checked

Drawn By: AH
Date: 26.10.22
Checked By: CE
Date: 26.10.22

Project No: 17090
Scale: 1:200 @A3
Dwg No: P07
Rev: C

Issued for:

PLANNING

Project/Client: West Beach Bournemouth

Drawing: Proposed Elevations North & South Elevation

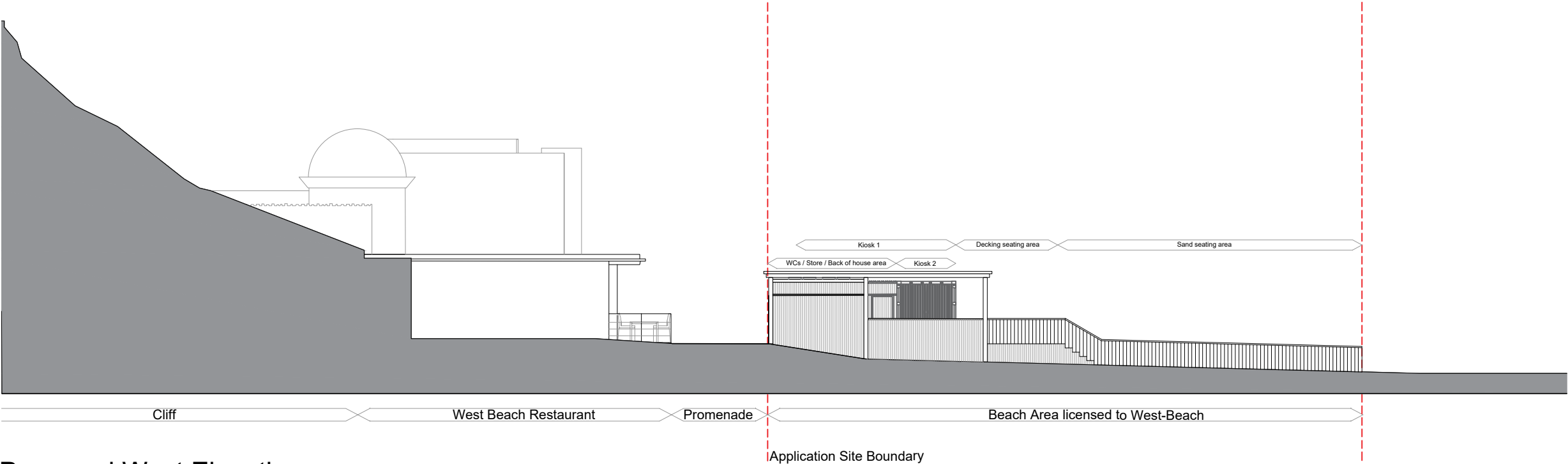
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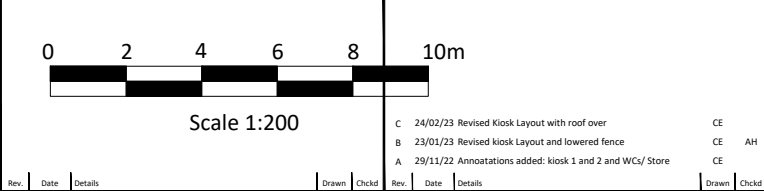


Proposed East Elevation
1:200 @ A3



Proposed West Elevation
1:200 @ A3

- Notes:
- All drawings are subject to Planning and Building Control consent.
 - The details shown are for design intent purposes only and are subject to further design development with suppliers and sub-contractors
 - Proposals subject to consultation and approval from Local Authority Building Control or an Approved Inspector
 - All setting out dimensions should be checked on-site prior to construction and any discrepancies and/or omissions should be reported to the Architect immediately



Drawn By: AH
Date: 26.10.22
Checked By: CE
Date: 26.10.22

Project No: 17090
Scale: 1:200 @A3
Dwg No: P08
Rev: C

Issued for:

PLANNING

Project/Client: West Beach Bournemouth

Drawing: Proposed Elevations East & West Elevations

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Planning Committee

Application Address	East Undercliff Drive to the right of East Cliff Lift, Bournemouth, BH2 5AA
Proposal	Variation/Relief of conditions 1,2 & 10 of application no 7-2023-15059-AA to alter the previous consent for Use of land as a seasonal outdoor event space for serving food and beverages with ancillary structures (Use Class E) and to extend the period of consent until October 2027
Application Number	7-2024-15059-AD
Applicant	El Murrino Ltd
Agent	Mr Matt Annen
Ward	East Cliff & Springbourne Councillor Anne Filer Councillor Sara Armstrong Councillor Anne-Marie Moriarty
Report Status	Public
Meeting Date	21 November 2024
Recommendation	GRANT
Reason for Referral to Planning Committee	Referred for consideration by the Director of Planning and Transport as BCP Council is the land owner.
Case Officer	Steve Davies
EIA development	No

Description of Development

- The application seeks the variation/ relief of conditions 1, 2 and 10 of application 7-2023-15059-AA. This previous application related to 'Use of land as a seasonal outdoor event space for serving food and beverages with ancillary structures (Use Class E)' and was approved on 16 April 2024. As there is an application for a variation of conditions the applicant is relying on the previous plans and documents.

- 2 Conditions 1, 2 and 10 of this previous planning permission were as follows:

Condition 1:

The development hereby permitted shall be carried out in accordance with the following approved plans: A/478/02, 03, 04, 05, 06, 07, 10, BP

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

Condition 2:

On or before the 1 April 2025 the use including decking (including supporting structures), containers and fencing and any other temporary structures hereby permitted as shown by the submitted plans and elevations and the site layout plan, hereby permitted shall cease and be removed in its entirety and the land restored to its condition before the development hereby permitted took place (as part of the open beach).

Reason: The temporary nature of the materials used in the construction of the structures make it unsuitable for permanent permission and to enable the Council to review the strategy in accordance with policies CS31 and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012) and policy D4 of the Bournemouth Town Centre Area Action Plan (March 2013).

Condition 10:

Notwithstanding the details shown on the approved plans, details of a scheme for the enclosure of the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of fencing not to exceed 1.1m in height with a clear glazed screen above. The overall combined height of the means of enclosure shall not exceed 1.8m in height. The approved scheme shall be implemented prior to commencement of the use hereby approved and shall be maintained and retained for the entirety of the operation and then removed at the end of the season when the operation ends.

Reason: To help maintain the openness of the site and in accordance with policies CS31 and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012) and policy D4 of the Bournemouth Town Centre Area Action Plan (March 2013).

- 3 The changes proposed to the conditions are as follows:
- Condition 1 - a revised plan is now submitted which shows a slightly smaller area 31m x 40m compared with 32.1m x 41m previously;
 - Condition 2 - to extend the permission for a further 3 summers until October 2027;
 - Condition 10 - to allow amendments to the scheme for enclosure of the development in the future.
- 4 The photo montage shown in no. 1 below shows that the proposal is for an enclosed space with 5 portable buildings for toilets, storage and serveries. There are also pergolas, sunbeds and parasols. The enclosure has an area of 40m wide x 31m depth. The proposal is for a change of use of the land with the ancillary structures portable, movable and temporary. However, as part of the planning application, conditions are suggested in respect of these structures.
5. The photo shown at no. 2 shows the layout that was installed for summer 2024

Description of Site and Surroundings

6. Seafront and beach location. The application site lies to the east of the East Cliff zig-zag path. See the location shown at no.3 below where the promenade curves slightly to the right hand side of the image.

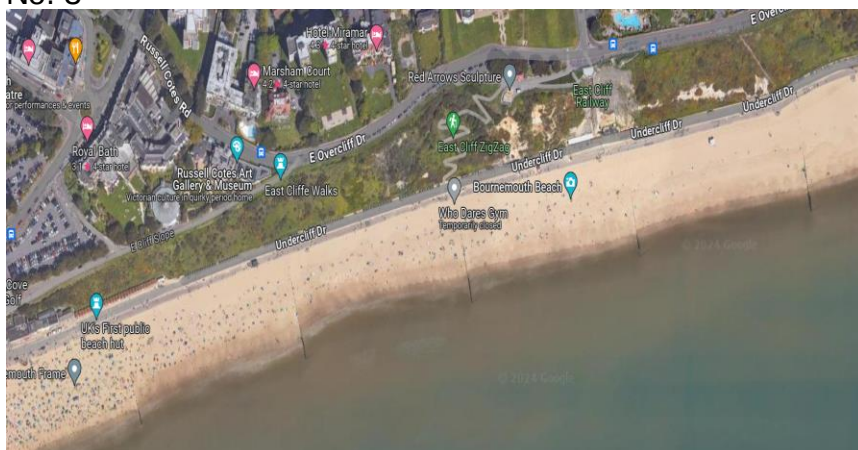
No. 1



No. 2



No. 3



Relevant Planning Applications and Appeals:

- 7 7-2023-15059-AA: Use of land as a seasonal outdoor event space for serving food and beverages with ancillary structures (Use Class E). Approved: 16 April 2024
- 8 Proposals have also been approved as follows:
- 7-2022-19168-Q: West Beach Café - Part retrospective application to erect seasonal external decking with associated temporary structures and enclosed beach dining area. Approved: 24 March 2023
 - 7-2023-5155-F: Durley Chine - Replace existing decking with new extended decking that includes a container servery. Granted: 18 April 2023
 - 7-2023-15059-V: Prom Diner - Provision of a seasonal beach (pop up) offering that will provide seating and areas for the public to use as part of the Prom Diner existing offering. The proposal includes the installation of removable structures such as decking, a container and timber structures. Granted: 21 November 2023

Constraints

- 9 The following constraints have been identified.
- Flood zone 3;
 - The beach has an open space allocation and falls within the remit of policy CS31.

Public Sector Equalities Duty

- 10 In accordance with section 149 Equality Act 2010, in considering this proposal due regard has been had to the need to —
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Other relevant duties

- 11 In accordance with section 40 Natural Environment and Rural Communities Act 2006, in considering this application, regard has been had, so far as is consistent with the proper exercise of this function, to the purpose of conserving biodiversity.
- 12 For the purposes of this application, in accordance with section 17 Crime and Disorder Act 1998, due regard has been had to, including the need to do all that can reasonably be done to prevent, (a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); (b) the misuse of drugs, alcohol and other substances in its area; and (c) re-offending in its area. In this case the site will be subject to normally licencing conditions which would help to control and anti-social behaviour.
- 13 For the purposes of this report regard has been had to the Human Rights Act 1998, the Human Rights Convention and relevant related issues of proportionality.

- 14 For the purposes of section 40 Natural Environment and Rural Communities Act 2006, in assessing this application, consideration has been given as to any appropriate action to further the “general biodiversity objective”.

Consultations

- 15 Council Tourism Team – The comments made previously are still relevant – *“Seasonal build outs along the Undercliff Drive between Bournemouth and Boscombe Piers will animate this stretch with pop-up hospitality facilities while the section from Toft Steps to Boscombe provides focus for developing a range of water and beach-based sport and wellbeing activities. Tourism would not object to this application. It will also encourage footfall to spread Eastwards and Westwards towards the pier.”*
- 16 Flood and Coastal Erosion Risk Management – the Councils consultee has made the following comment *“As this is to extend the application to October 2027, adhering to the previously approved conditions which reflect the coastal risk management issues for this site including being removed from site between October and March each year (when we will very definitely be doing coastal defence works in this area in the coming years to 2027), we have no problem with this being granted from a flood & coastal risk management perspective.*
- 17 Biodiversity Officer – previous comments regarding lighting and effect on bats dealt with by condition set out below. The proposal is exempt from Biodiversity Net Gain (BNG).
- 18 Environmental Health – As the proposal is on the promenade and not close to residential properties there are no significant noise nuisance issues that would require assessment by the Environmental Health Officer. The previous approval was subject to a noise management plan that would again be adopted.
- 19 Highway Officer – as it is located on the beach and there are no significant traffic issues no consultation is required.
- 20 Environment Agency – The EA were satisfied with the previous Flood Risk Assessment and any future permission would be tied to this assessment and recommendations/ procedures.

Representations

- 21 Site notices were posted in the vicinity of the application site with an expiry date for consultation of 23/9/24.
- 22 An objection has been received from the Meyrick Estate setting out the following concerns.

1) Loss of a designated public open space area to a commercial activity:

The proposed Beach Restaurant/Bar will be located on a sandy area of the beach which is designated public open space. Policy CS31 of the Bournemouth Core Strategy (2012) advocates against developments that result in the loss of public open space. Furthermore, the size and bulk of the beach bar is not in keeping with the natural area.

2) Environmental Concerns: Littering and Ocean Pollution

The Bournemouth Core Strategy (2012) highlights the importance of minimising pollution under Policy CS38. A beach restaurant/bar of this size will create noise that would be unwelcome to other beach users. Littering along Bournemouth beaches is already a significant problem, and takeaway sales will exacerbate this issue.

Key Issues

23 The main considerations involved with this application are:

- Impact on character and appearance of the area;
- Loss of open space;
- Impact on amenity;
- Impact on the coastal engineering and flood risk;
- Noise;
- Biodiversity.

Planning Policies

24 **Bournemouth Local Plan Core Strategy (2012)**

CS1: NPPF and Sustainable Development
CS4: Surface Water Flooding
CS6: Delivering Sustainable Communities
CS7: Bournemouth Town Centre
CS18: Increasing Opportunities for Cycling and Walking
CS29: Protecting Tourism and Cultural Facilities
CS30: Green Infrastructure
CS31: Recreation, Play and Sports
CS38: Minimising Pollution
CS41: Quality Design

25 **Bournemouth Town Centre Area Action Plan (2013)**

Policy D4: Design Quality
Policy U7: Cafes and restaurants
Policy U8: TC central area for tourism uses
Policy U9: Evening and night time uses

26 **Bournemouth District Wide Local Plan (2002)**

Policy 3.28: Flooding

27 **Supplementary Planning Documents:**

Public Realm Strategy: Guiding Principles – SPD

28 **Other:**

The Seafront Strategy is a corporate policy. It does not form part of the Statutory Development Plan but is a key Council objective. It supports the visitor experience stretching between the West Cliff and Boscombe Pier by developing a coherent and consistent linear promenade space to create an ultimate vibrant beachfront and also supports investment in utilities, public toilets and infrastructure to support the development of new pop-up leisure, cafes, restaurants, bars, cultural attractions and eventing space between Bournemouth and Boscombe Piers. Cabinet recently reviewed the strategy and regarding this area the following priority was agreed.

Enable diverse and vibrant seasonal sports, leisure and food & beverage offers that sympathetically enhance the public amenity and open space, with a particular focus between West Cliff and Boscombe Pier.

The Seafront Visitor Survey (2023) supports the public views around investment in food and drink offers.

29 **The National Planning Policy Framework (2023)**

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and is a material consideration in planning decisions.

Including the following relevant paragraphs:

Section 2 – Achieving Sustainable Development;

Paragraph 11 –

“Plans and decisions should apply a presumption in favour of sustainable development.

For **decision-taking** this means:

- (c) approving development proposals that accord with an up-to-date development plan without delay; or
- (d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of this Framework taken as a whole.”

Section 6 – Building a strong, competitive economy;

Section 7 – Ensuring the vitality of town centres;

Section 8 – Promoting healthy and safe communities;

Section 12 – Achieving well-designed spaces;

Section 14 – Meeting the challenge of climate change, flooding and coastal change;

Section 15 – Conserving and enhancing the natural environment.

Emerging Local Plan

- 30 The draft BCP Local Plan was submitted to the Secretary of State on 27 June 2024 for examination. The Local Plan examination is expected to take around 12 months. If approved by the Inspectors, the Local Plan will replace the current Local Plans around the middle of 2025. Due to the stage the Plan has reached, the majority of policies are attracting very limited weight at this time.

Planning Assessment

Key Issues

Principle of development

- 31 Many of the core strategy policies seek to ensure sustainable communities through good quality development, supporting tourism and protecting spaces for recreation, walking and general enjoyment. The application site lies within the Town Centre and policy CS7 (Bournemouth Town Centre) indicates that this is the most appropriate location for *...retail, cultural, leisure and business uses....* Development proposals should maintain and enhance the function of the town centre, and it is considered that the current proposal meets this criteria.
- 32 Policy CS31 (Recreation, Play and Sports) states that planning permission will be refused for development that results in the loss of public and private open space. This is a key policy for the protection of public open space. However, it is considered that the proposal would not result in the permanent loss of a significant amount open space. The proposal is not considered to result in the permanent loss of open space, and this is discussed in more detail below.
- 33 The Area Action Plan has policies to protect the town centre and the tourism function. The site lies with the town centre boundary and the proposal would support tourism as set out in policies U8 and U9. Food and beverage outlets have always been located on the beach front together with the shopping areas in the town centre offering a different and complementary offering.
- 34 There has been several approvals for beach decking and small ancillary structures on various parts of the beach including the West Beach Café immediately to the west of the Pier. The Council has also supported this proposal with a recent temporary permission.
- 35 On the basis of the above the proposal is considered acceptable in principle and is also in accordance with policy CS6 (Delivering Sustainable Communities) by maintaining a balance in development opportunities whilst protecting key facilities.

Impact on character and appearance of the area

- 36 The Council has been supportive of beach decking areas here and elsewhere on the beach which provides a Mediterranean type of tourist facility. The “El Murrino” Beach Restaurant has now become an established summer feature. When this application was previously considered by the Planning Committee in March 2024, concern was raised with regards to the visual impact of the proposal and a condition was attached to the planning permission that was granted to help ensure that the site was only screened by a low 1m high balustrade with a glazed windbreak above.
- 37 The applicant instead installed higher screens towards the rear of the site (shown below) to screen the larger container type units and back of house elements as shown below. The current proposal seeks to include this higher fencing to screen the portable storage and toilet buildings.



- 38 On balance, it is considered that it would be more difficult to resist this higher fencing given that it screens the back of house areas with the lower fencing retained on the other areas of the proposal. On this basis, the proposal would be in general accordance with planning policies CS41 and D4 in respect of design and visual amenity.

Loss of Open space

- 39 The loss of open space was raised as an issue in respect of the previous proposal on the beach. This is because when the decking is in place during the summer and the premises are trading the area is only available to the patrons. However, this is not a permanent loss as during the winter when the parasols, structures and shelters are removed the area reverts to beach. So it is not a permanent loss of open space but during part of the year it is not fully available.
- 40 Given the amount of beach area available and as there are already other concessions on the beach it is considered that it would be difficult to sustain an objection to the proposal in the current circumstances. Policy CS31 deals with this matter and suggests that open space shouldn't be lost *"...except where it is demonstrated to be underused and surplus to requirements and the benefits arising from development outweigh the loss of the space"*. As set out above, the space would not be permanently lost. Further, beach users would benefit from having the opportunity to have an alfresco dining experience on the beach whilst not restricting other beach users unduly. However in the context of the remaining public beach areas the open space area utilised represents a very tiny percentage of open space.
- 41 On the basis of the above, the proposal is considered to be in general accordance with policy CS31 in so far as loss of open space. Whilst the proposal has an impact on the open space it is considered that the temporary loss in the summer period of the space is not significant and would not result in the proposal being contrary to this policy. As set out above the Council has reviewed its Corporate Seafront Strategy. Whilst this is not a planning policy it does set out a requirement that proposals should *"sympathetically enhance the public amenity and open space"*. It is considered that the Planning Committee in supporting the application earlier in the year had full regard to this matter and in the circumstances the open space policy would not be compromised.

Impact on amenity

- 42 The proposal is likely to increase activity to the area with more people coming and going from the site and creating a potentially livelier party atmosphere. However, there are no immediate residential properties, and the use would operate when the seafront area is often busy during normal daytime and evening hours. The nearest residential properties are some distance away at the top of the cliff that they would not be directly affected by noise and disturbance in this location, and the development would not be visually intrusive or overbearing to them. There are no objections lodged to this application from local residents, or previous applications, which would have indicated a concern. The representation from the Meyrick Estate has raised concern with the effect of noise and disturbance to other beach users. However, this location will already be relatively busy during the summer period with a throng from other beach users with children playing and listening to music. Therefore, it is considered that on this part of the beach the proposal wouldn't significantly harm amenity. There is no knowledge of any complaints over the previous years when it has been in operation but in any event the proposed noise management plan in place would ensure that this would not be a noisy venue.
- 43 The previous approval was subject to an hour's restriction and a requirement to adhere to a noise management plan. With these conditions in place it is considered that the proposal wouldn't cause harm to amenity and would accord with planning policies CS38 and CS41 of the Bournemouth Core Strategy.

Impact on the coastal engineering and flood risk

- 44 The application site is located in flood zone 3. The proposal, to facilitate an outdoor seating area, could be classed as a 'Water Compatible' use (NPPF Annex 3) (outdoor sports and recreation) and on this basis would not require the submission of a Flood Risk Sequential Test to determine alternative sites but a Flood Risk Assessment is required. The NPPF in paragraph 174 states – "Applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote 59". There is some conjecture about whether the structures themselves are buildings although as they are clearly temporary and are easily moveable it is not considered that they need to follow the sequential test. However, a Flood Risk Assessment is required. It is also noted that buildings for restaurants and cafes are classified as a less vulnerable use are also appropriate development in flood zone 3a.
- 45 The Environment Agency have not responded however; their approach has been the same for all the beach pop ups in that provided a flood risk plan is in place the proposal is acceptable. The Councils own flood risk advisors are satisfied with the proposal.
- 46 The applicant has re-submitted the flood risk assessment that was agreed for the last application, and measures have been highlighted to deal with any emergency evacuation. This was agreed by the Environment Agency previously and would similarly be added as a condition to this proposal.
- 47 On the basis of the above, the proposal would be compliant with policy CS4 of the Bournemouth Core Strategy document and the requirements of the NPPF.

Biodiversity

- 48 Statutory Biodiversity Net Gain does not apply in this instance because this is a Section 73 application relating to a permission which pre-dates Biodiversity Net Gain (application 7-2023-15059-AA was dated 21 March 2023 and Biodiversity Net Gain became mandatory for

minor developments on 2 April 2024). In this regard, transitional arrangements apply to variations of existing planning permissions as confirmed by paragraph 3 of the NPPG:

'Biodiversity net gain does not apply to:

- retrospective planning permissions made under section 73A; and*
- section 73 permissions where the original permission which the section 73 relates to was either granted before 12 February 2024 or the application for the original permission was made before 12 February 2024'.*

- 49 Further, the Local Planning Authority Biodiversity Officer does not object to these facilities but a condition about lighting should be included to ensure that foraging bats are not disturbed by any bright lighting. Accordingly the proposal is considered to accord with policy CS30 of the Core Strategy.

Summary

- 50 As set out above it is considered that the proposal as previously approved with modified screening and layout is acceptable in terms of design and impact for a further two years.

Planning Balance / Conclusion

- 51 Many of the core strategy policies and specifically CS6, CS7, CS31 seek to ensure sustainable communities through good quality development, supporting tourism and protecting spaces for recreation, walking and general enjoyment. It is located on open space and the proposed use currently also contributes to the seafront tourism offer. Whilst its appearance and scale does have a significant impact the openness of the beach at this point it has successfully operated during the summer period in the summer period when the beach has more activity and features. The proposal does not result in the permanent loss of open space and has clear tourism benefits and therefore it is considered acceptable for a further two years.
- 52 Members are aware that the Planning Officer's previous recommendation was to refuse the development. However, the previous Committee decision to support the proposal is a material consideration. Also, it is important to be aware that the Council have reviewed their seafront strategy. Although the weight to be given in planning policy terms is not overriding in this case it is important that the recommendation has taken account of the general planning requirement which requires proposals to *"sympathetically enhance the public amenity and open space"*.
- 53 Therefore, having considered the appropriate development plan policy and other material considerations, including the NPPF, it is considered that the development would be in accordance with the Development Plan and would not materially harm the character or appearance of the area or amenity. The Development Plan Policies considered in reaching this decision are set out above.

Recommendation

- 54 **GRANT** Planning Permission subject to the following conditions:

1. Development to be carried out in accordance with plans as listed

The development hereby permitted shall be carried out in accordance with the following approved plans: A/478/02 and 1.1250 scale location plan.

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

2. Temporary permission expiring

On or before the 1 October 2027 the use hereby permitted including decking (including supporting structures), containers and fencing and any other temporary structures as shown by the submitted plans and the site layout plan, hereby permitted shall cease and be removed in its entirety and the land restored to its condition before the development hereby permitted took place (as part of the open beach).

Reason: The temporary nature of the use and the materials used in the construction of the structures make it unsuitable for permanent permission and to enable the Council to review the strategy in accordance with policies CS31 and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012) and policy D4 of the Bournemouth Town Centre Area Action Plan (March 2013).

3. External Lighting

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and re-enacting that order with or without modification) no floodlighting shall be installed on any part of the application site as shown on approved plans. Any external lighting shall be directional to only illuminate the enclosed area hereby permitted and lighting to be compliant with 'GN08/23 Bats and Artificial Lighting at Night' by Institution of Lighting Professionals, that is: luminaires to have colour temperature less than 2700 K, with peak wavelengths no greater than 550nm.

Reason: In the interests of visual amenity and given the site location on the beach all to accord with policies CS31 and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012) and policy D4 of the Bournemouth Town Centre Area Action Plan (March 2013) and in accordance with National Planning Policy Framework (2023) paragraph 180 "Planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity"

4. Removal of structures outside of summer season

All structures, decking and containers including table/chairs, and barriers shall be removed from site (and not stored on the promenade) between the period of 30 September until the following 1 May annually.

Reason: Having regard to the location and the temporary nature of the materials used in the construction of the structures makes the facility unsuitable for permanent retention during the winter and in accordance with policies CS31 and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012) and policy D4 of the Bournemouth Town Centre Area Action Plan (March 2013).

5. Flood risk management and emergency evacuation plan

The Flood Risk Emergency Evacuation Plan submitted to the Council with application no 7-2023-15059-AA and as amended shall be adopted in full and prior to the use commencing and this shall be followed at all times.

Reason: To ensure the safety of customers and staff and in accordance with saved Policy 3.28 of the Bournemouth District Wide Local Plan (2002).

6. Hours of Use

The use hereby permitted shall not be used outside the following times: 07.00 hours and 23.00 hours.

Reason: To safeguard the amenities of occupiers of adjoining and nearby properties and in accordance with Policies CS38 and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

7. Waste management plan

Prior to the use recommencing, a waste management plan including a plan for litter management shall be submitted to and approved in writing by the Local Planning Authority. The refuse management plan shall be carried out in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development includes a management plan for the collection of refuse in the interests of visual and residential amenities, and to accord with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

8. Prior agreement on design of container cladding.

Notwithstanding the details shown in the application the proposed containers/portable buildings shown on the layout plan shall be clad in accordance with details to be approved in writing by the Council. Details of the design and samples of the proposed cladding to be used on the external surfaces of the proposed containers/portable buildings shall be submitted to and approved in writing by the Local Planning Authority prior to the installation of the decking or any other ancillary structures/works on site. Development shall be carried out in accordance with the approved details. (Note also the informative below regarding advertisements)

Reason: To ensure a satisfactory visual relationship between the existing and the new development in accordance with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

9 Noise Management Plan

The noise and sound management plan approved under application no 7-2023-15059-AA shall be adopted and operated in full at all times when the use hereby approved is in operation.

Reason: In order to protect the environmental amenities of the immediate locality and in accordance with Policy CS38 and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

10. Enclosure details to be agreed

Notwithstanding the details shown on the approved plans, details of a scheme for the enclosure of the development shall be submitted to and approved in writing by the Local

Planning Authority. The scheme shall include details of fencing not to exceed 1.1m in height with a clear glazed screen above. The overall combined height of the fencing and glazed screen shall not exceed 1.8m in height. The approved scheme shall be implemented prior to commencement of the use hereby approved and shall be maintained and retained for the entirety of the operation and then removed at the end of the season when the operation ends.

Reason: To help maintain the openness of the site and in accordance with policies CS31 and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012) and policy D4 of the Bournemouth Town Centre Area Action Plan (March 2013).

Informative Note:

The applicant is advised that as per the standing guidance, it is the owners responsibility to clear any damage that may arise to their structures as part of storms, and that if they do fix any part to the seawall (See Condition 6: Fixings to Seawall above) that they are liable for repairs in the event of any damage (during installation, operation, removal or through storm damage from this fixing).

Informative Note: This permission does not convey consent in respect of any advertising on the premises, for which a separate application under the Town and Country Planning (Control of Advertisements)(England)Regulations, 2007 (or any subsequent Order or Regulations revoking or re-enacting these Regulations with our without modification) may be necessary.

Advice to Applicant

We appreciate this is a time limited operation (during summer months only), however the risk of damage from storms during this time still exists. Therefore, we would advise that the applicant signs up to the following flood alert which covers the open coast in this area.

Flood Alert Area - East coast of Dorset covering Castletown, Weymouth, Preston Beach, Swanage Bay, Studland Bay, Sandbanks, Poole Harbour, Bournemouth Beach, Hengistbury Head and Christchurch Harbour East coast of Dorset flood alert area - GOV.UK (check-for-flooding.service.gov.uk)

Please note that there is no specific flood warning for this area so the applicant should also look for local information and use the Met Office weather warnings as potential triggers for operating the site.

Statement required by National Planning Policy Framework

In accordance with paragraph 38 of the revised NPPF the Council takes a positive and proactive approach to development proposals focused on solutions. The Council work with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service,
- as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions,

In this instance:

the applicant was not provided with pre-application advice, but the application was dealt with following discussions with the applicant and subsequent amendments.

Background Documents:

Documents uploaded to that part of the Council's website that is publicly accessible and specifically relates to the application the subject of this report including all related consultation responses, representations and documents submitted by the applicant in respect of the application.

Notes.

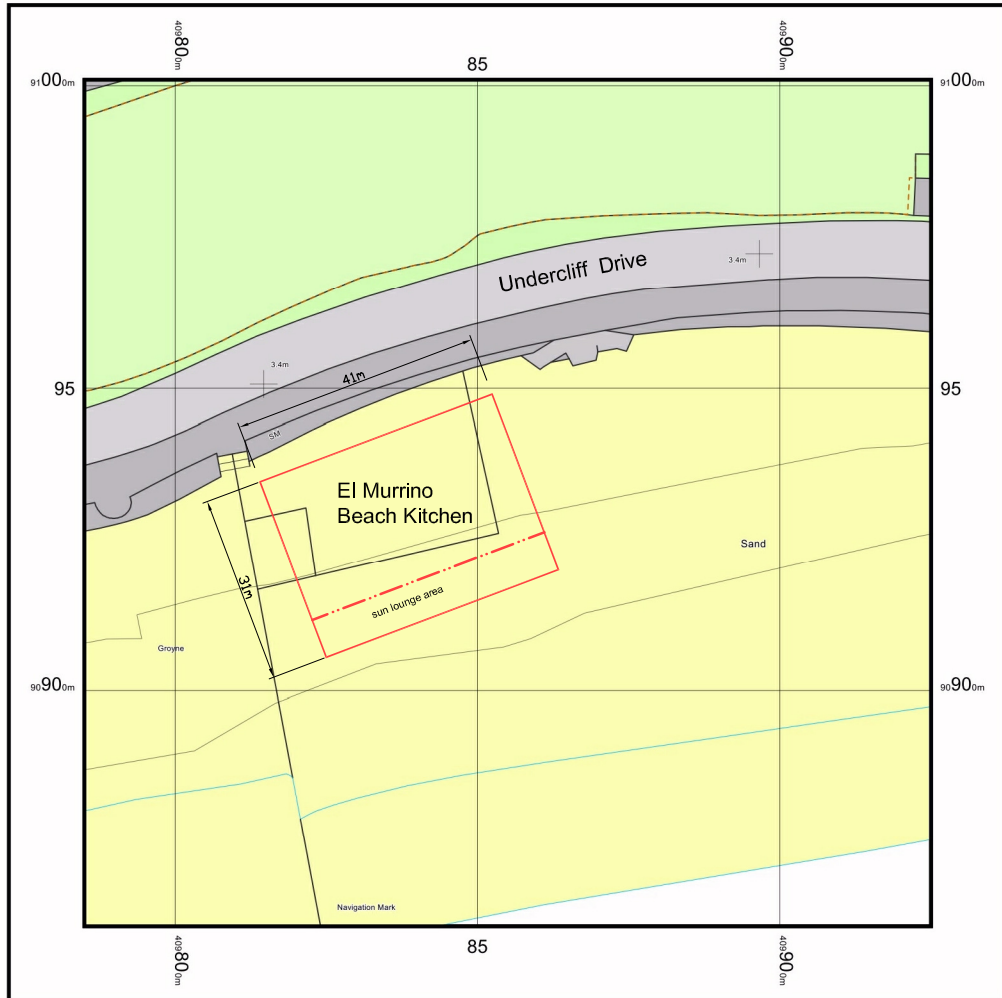
This excludes all documents which are considered to contain exempt information for the purposes of Schedule 12A Local Government Act 1972.

Reference to published works is not included.

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EAST CLIFF BEACH CAFE, UNDERCLIFF DRIVE, BOURNEMOUTH, BH1 3BZ

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Scale 1:1250

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Notes

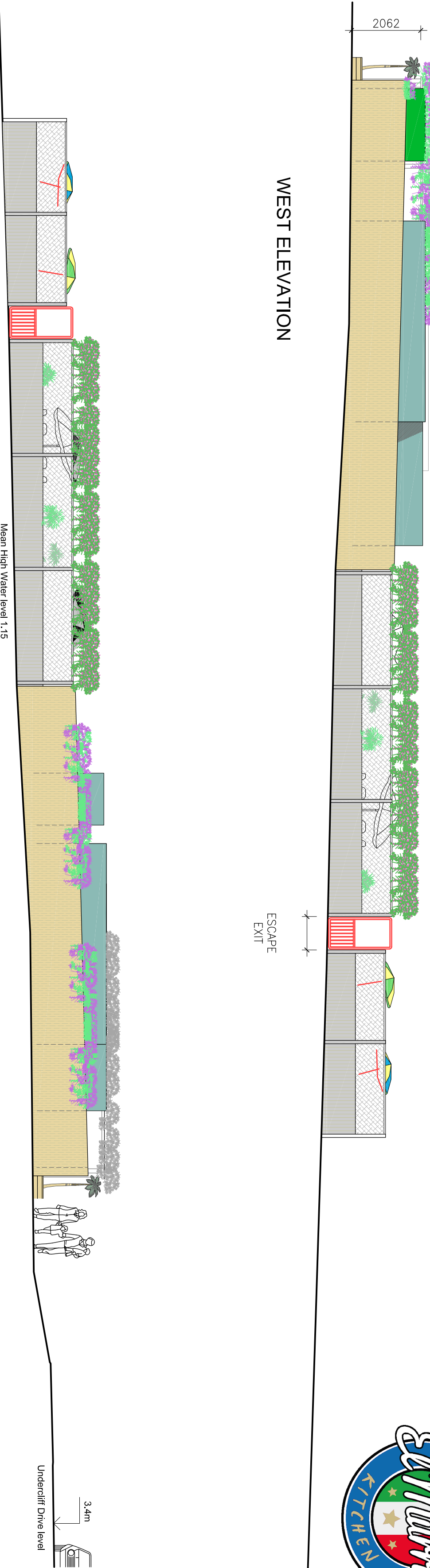
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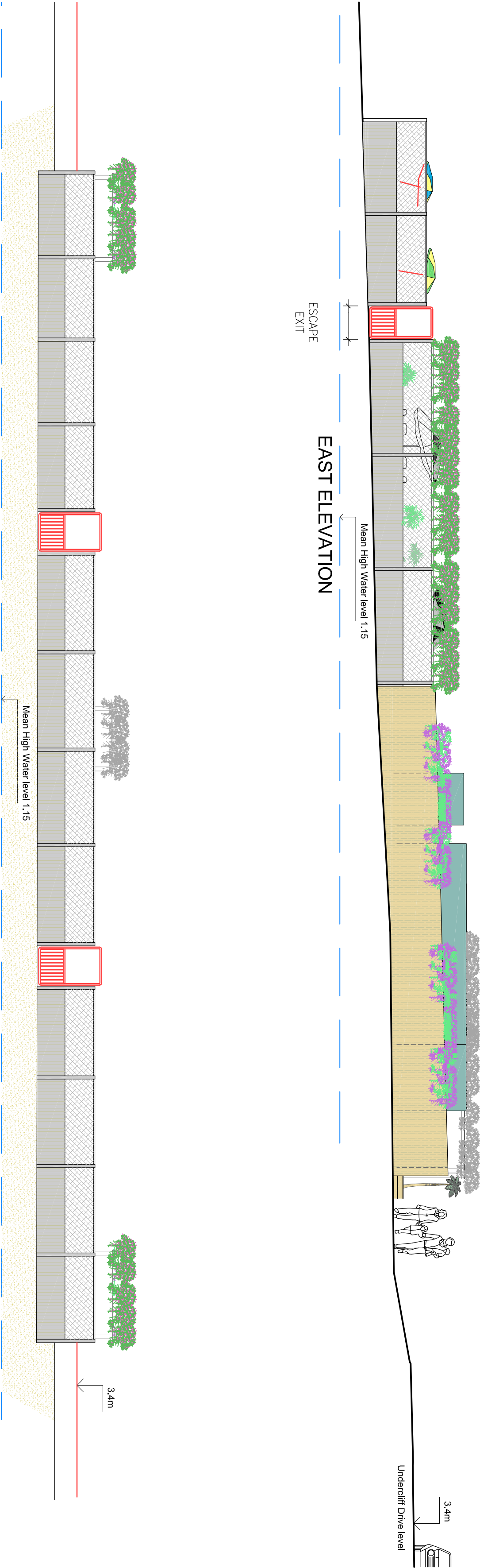
WEST ELEVATION

ESCAPE
EXIT

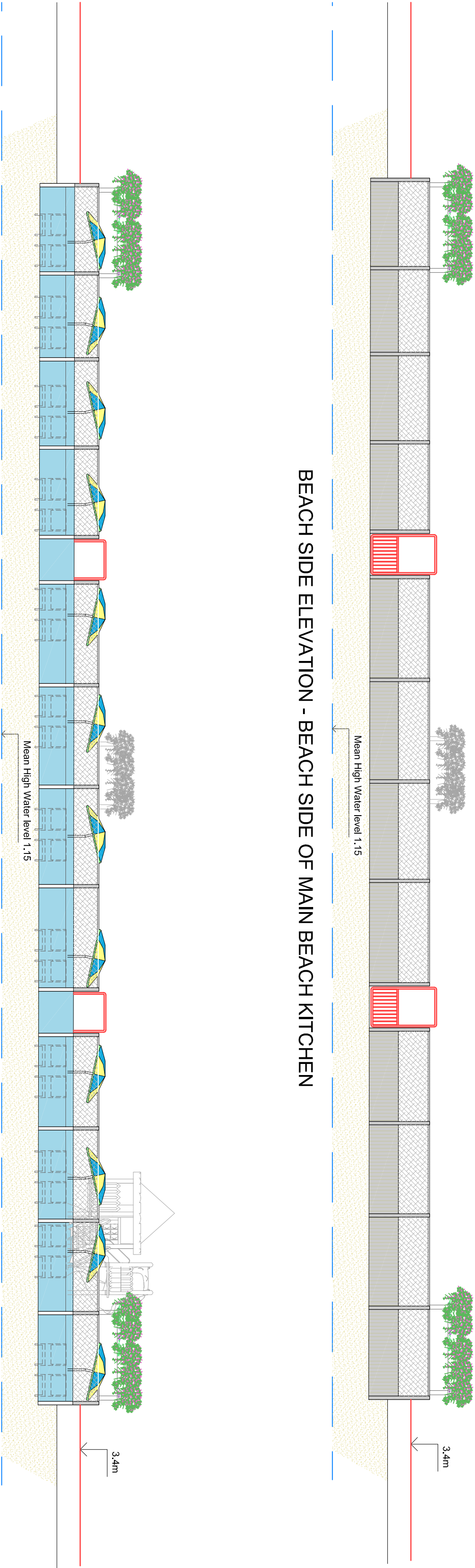


EAST ELEVATION

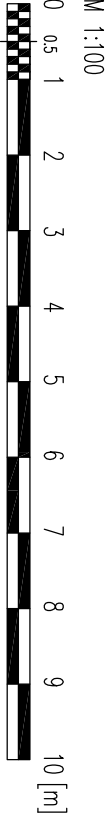
ESCAPE
EXIT



BEACH SIDE ELEVATION - BEACH SIDE OF MAIN BEACH KITCHEN

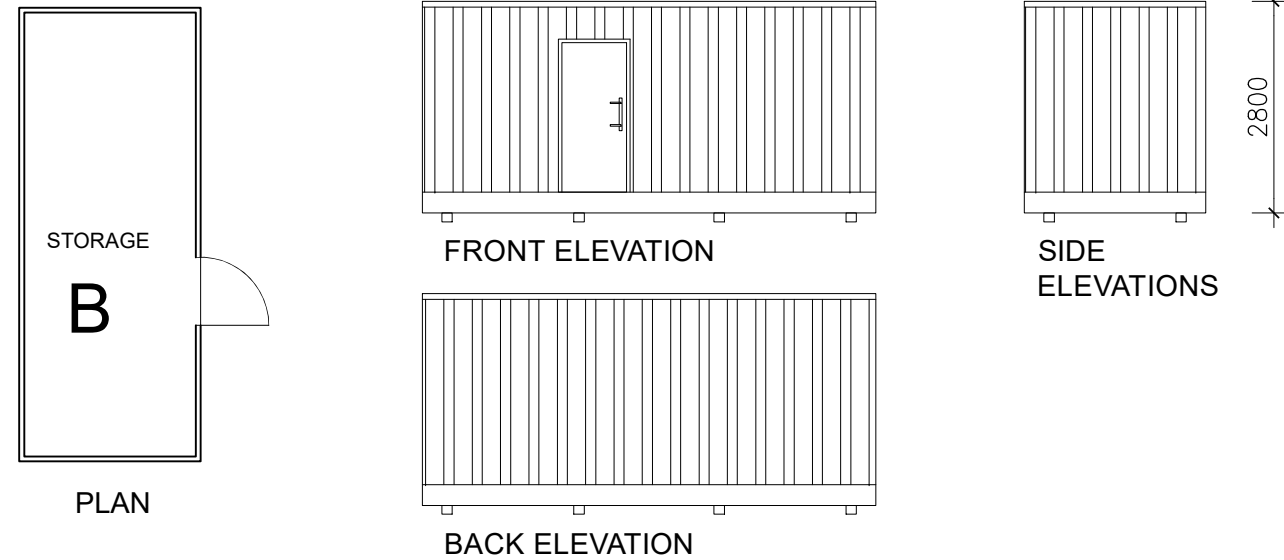


BEACH SIDE ELEVATION - SHOWING PROPOSED BEACH SIDE SUN-LOUNGE AREA & BALUSTRADE

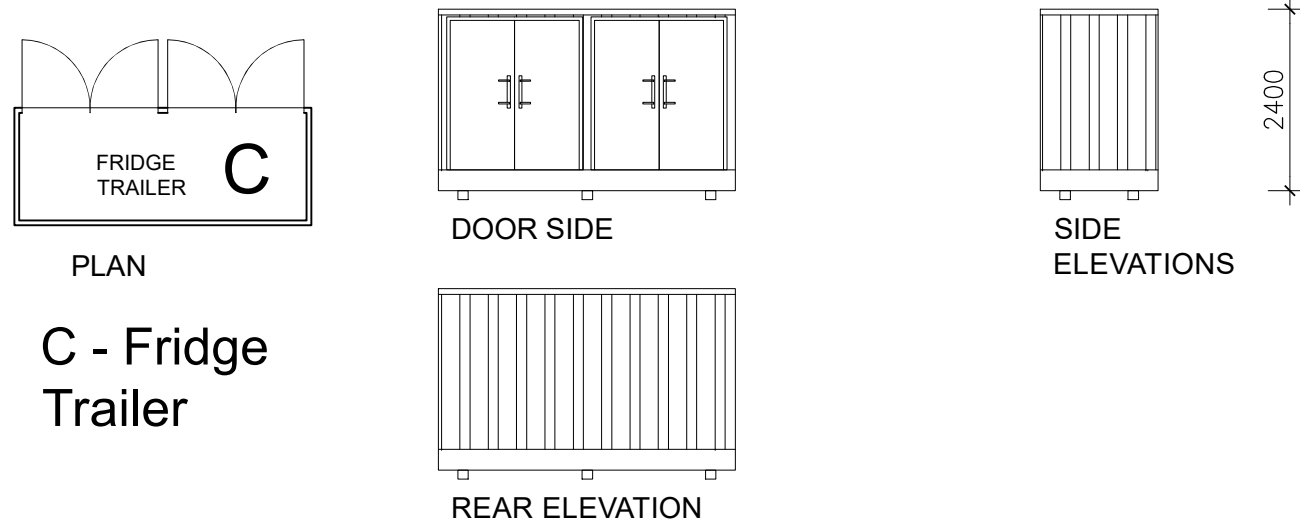


Rev: Date: Detail:			
Do not scale off this drawing. All Dimensions to be checked on site by the contractor.			
PLANNING			
Architectural & Design Development			
23 Firs Glen Road Talbot Park Bournemouth Dorset BH9 2LS			
Tel:01202 - 527426 Mobile: 0781 1282136 Email : architecturaldesign_63@yahoo.co.uk			
Client E.I. Murrino Limited 154 Old Christchurch Road Bournemouth BH1 1NL			
Project Proposed E.I. Murrino Beach Kitchen 2023 Season East Cliff Beach, Bournemouth			
Dwg Title:		Job No.	
Proposed Elevations Sheet 2		A / 478	
Scale:		Dwg No. Rev.	
1:100 @A2		04 .	
Date:		Drawn:	
Feb 2023		PN	

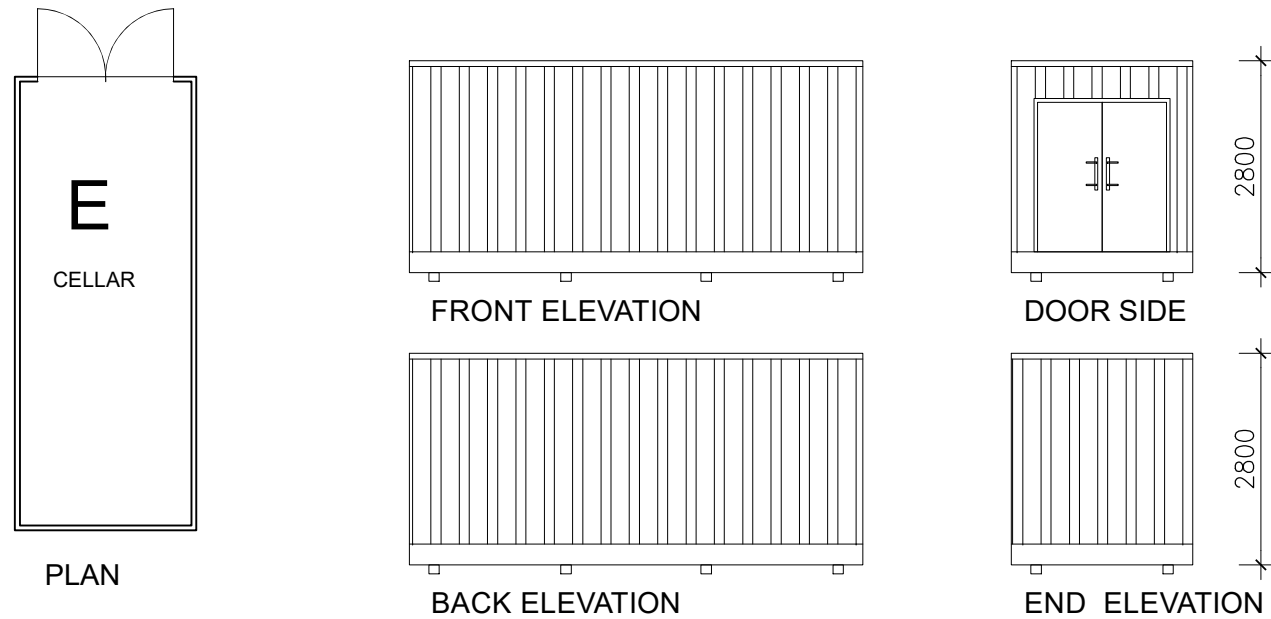
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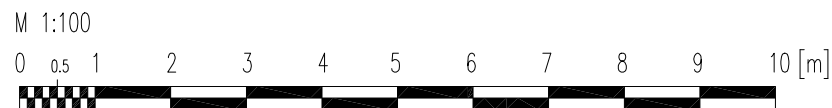
B -Store 1:100 scale



C - Fridge Trailer



E -Cellar



Notes

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Rev: Date: Detail:

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PLANNING		
Architectural & Design Development		
23 Firs Glen Road Talbot Park Bournemouth Dorset BH9 2LS		
Tel:01202 - 527426 Mobile: 0781 1282136 Email : architecturaldesign_63@yahoo.co.uk		
Client		
El Murrino Limited 154 Old Christchurch Road Bournemouth BH1 1NL		
Project		
Proposed El Murrino Beach Kitchen 2023 Season East Cliff Beach, Bournemouth		
Dwg Title: Container Details – Plans & Elevations. Sheet 2	Job No. A /478	
	Dwg No. 07	Rev. .
Scale: 1:100 @A3	Date: Nov 2023	Drawn: PN

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Planning Committee

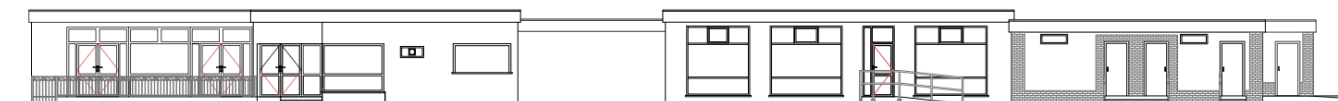
Application Address	The Prom Diner, Undercliff Drive, Bournemouth, BH5 1BN
Proposal	Replacement cladding, installation of balustrade, entrance ramps and associated alterations – Regulation 3
Application Number	7-2024-15059-AE
Applicant	BCP council Seafront Development
Agent	Mr Paul Richardson
Ward and Members	East Cliff and Springbourne Councillor Sara Armstrong Councillor Anne Filer Councillor Anne-Marie Moriarty
Report Status	Public
Meeting Date	21 November 2024
Recommendation	GRANT
Reason for Referral to Planning Committee	Referred for consideration by the Director of Planning & Transport as BCP Council is the applicant.
Case Officer	Steve Davies
EIA development	No

Description of Development

1 Planning consent is sought for:

- replacement timber cladding to cover the exterior façade;
- installation of balustrading to the front, which will replace the existing on the western side and provide new balustrading adjacent to the front entrance ramps;
- replacement entrance ramps; and
- associated minor alterations.

The proposal is to give the premises a facelift and also provide better compliant access. Bi-fold doors/windows are to be provided and the building will be clad in white painted timber cladding. The existing and proposed elevations are shown below. It can be seen that the proposed cladding is vertical and will cover the entire façade.



Existing South Elevation

Scale: 1:100



Proposed South Elevation

Scale: 1:100

Description of Site and Surroundings

- 2 The site is an existing long-standing café some 170m to the west of Boscombe Pier. It is set back along the promenade facing the beach.

Relevant Planning Applications and Appeals:

- 3 There site is a long established Beach Café/Kiosk which did not require formal planning permission at the time.
- 4 Application 7-2023-15059-V was approved by the BCP Planning Committee on 16 November 2023 for the “provision of a seasonal beach (pop up) offering that will provide seating and areas for the public to use as part of the Prom Diner existing offering. The proposal includes the installation of removable structures such as decking, a container and timber structures – Regulation 3”. It was a temporary consent.

Constraints

- 5 The following constraints have been identified.
 - Flood zone 1; [which means that flooding not an issue with this proposal]
 - The beach and promenade has an open space allocation and falls within the remit of policy CS31. The site is surrounded by this open space but is not allocated as such itself.

Public Sector Equalities Duty

- 6 In accordance with section 149 Equality Act 2010, in considering this proposal due regard has been had to the need to —
 - eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Other relevant duties

- 7 In accordance with section 40 Natural Environment and Rural Communities Act 2006, in considering this application, regard has been had, so far as is consistent with the proper exercise of this function, to the purpose of conserving biodiversity.
- 8 For the purposes of this application, in accordance with section 17 Crime and Disorder Act 1998, due regard has been had to, including the need to do all that can reasonably be done to prevent, (a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); (b) the misuse of drugs, alcohol and other substances in its area; and (c) re-offending in its area. In this case the site will be subject to normally licencing conditions which would help to control and anti-social behaviour.
- 9 For the purposes of this report regard has been had to the Human Rights Act 1998, the Human Rights Convention and relevant related issues of proportionality.
- 10 For the purposes of section 40 Natural Environment and Rural Communities Act 2006, in assessing this application, consideration has been given as to any appropriate action to further the “general biodiversity objective”.

Consultations

- 11 Highways Officer – as it is located on the beach there is no significant traffic issues, and there is no encroachment onto the highway - no objection raised.
- 12 Natural England - no objection.

Representations

- 13 Site notices were posted in the vicinity of the application site with an expiry date for consultation of 16/10/24.
- 14 No representations have been received from the general public.

Key Issues

- 15 The main considerations involved with this application are:
 - Impact on character and appearance of the area;
 - Impact on amenity
 - Impact on the coastal engineering and flood risk
 - Biodiversity.

Planning Policies

16 Bournemouth Local Plan Core Strategy (2012)

Policy CS1: NPPF and Sustainable Development
Policy CS4: Surface Water Flooding
Policy CS6: Delivering Sustainable Communities
Policy CS29: Protecting Tourism and Cultural Facilities
Policy CS38: Minimising Pollution

17 **Bournemouth District Wide Local Plan (2002)**

Policy 3.28: Flooding

18 **Emerging Local Plan**

The draft BCP Local Plan was submitted to the Secretary of State on 27 June 2024 for examination. The Local Plan examination is expected to take around 12 months. If approved by the Inspectors, the Local Plan will replace the current Local Plans around the middle of 2025. Due to the stage the Plan has reached, the majority of policies are attracting very limited weight at this time.

19 **Supplementary Planning Documents:**

Public Realm Strategy: Guiding Principles – SPD

20 **Other:**

The Seafront Strategy is a corporate policy. It does not form part of the Statutory Development Plan but is a key Council objective. It supports the visitor experience stretching between the West Cliff and Boscombe Pier by developing a coherent and consistent linear promenade space to create an ultimate vibrant beachfront and also supports investment in utilities, public toilets and infrastructure to support the development of new pop-up leisure, cafes, restaurants, bars, cultural attractions and eventing space between Bournemouth and Boscombe Piers.

The Seafront Visitor Survey (2023) supports the public views around investment in food & drink offers.

21 **The National Planning Policy Framework (2023)**

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and is a material consideration in planning decisions.

Including the following relevant paragraphs:

Section 2 – Achieving Sustainable Development;

Paragraph 11 –

“Plans and decisions should apply a presumption in favour of sustainable development.

For **decision-taking** this means:

- (c) approving development proposals that accord with an up-to-date development plan without delay; or
- (d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of this Framework taken as a whole.”

The following sections are also relevant:

Section 6 – Building a strong, competitive economy;
Section 7 – Ensuring the vitality of town centres;
Section 8 – Promoting healthy and safe communities;
Section 12 – Achieving well-designed spaces;
Section 14 – Meeting the challenge of climate change, flooding and coastal change;

Planning Assessment

Key Issues

Principle of development

- 22 Many of the core strategy policies seek to ensure sustainable communities through good quality development, protecting amenity and promoting green infrastructure. The proposal is for a minor development to an existing building and use.
- 23 On the basis of the above the proposal is considered generally acceptable in principle and in accordance with Policy CS41 of the Core Strategy. Also, in principle the proposal would accord with the Seafront Strategy

Impact on character and appearance of the area

- 24 The existing building has a typical beach front appearance which is dated and has now become slightly tired. There is also a mixture of materials as the building has been altered in parts over the years– see the photo extract below. The proposal involves the introduction of bi-folding doors and windows to replace the many of the existing doors and windows. These will have a more modern appearance and user friendly benefit. The use of timber cladding is also appropriate in this seafront location set amongst traditional beach huts. Also many of the newer developments on the seafront have used similar timber clad materials.



- 25 The new ramp and balustrading would improve accessibility to the building and would not intrude upon the undercliff drive or promenade space.
- 26 On the basis of the above, it is considered that the proposals would be in keeping with the character and appearance of the seafront area in this location, and would accord with planning policy CS41 in respect of design and visual amenity.

Impact on amenity

- 25 The site is located adjacent to the beach and promenade and as such is some distance away from any residential properties. The opening doors and windows will open up the interior café use more to the outside, but there are already opening doors and windows to the existing café and it is not considered that these south facing windows and doors would have a harmful impact in terms of noise to local residents. The previous approval for the beach decking was subject to an hours restriction and a requirement to adhere to a noise management plan. With these in place it is considered that the proposal wouldn't cause harm to amenity and would accord with policies CS38 and CS41 of the Bournemouth Core Strategy.

Impact on the coastal engineering and flood risk

- 26 The application site is located in flood zone 1 and therefore for a building of this type and the nature of the development proposed a Flood Risk Assessment would not be required. However, the recent approval for the decking was subject to this requirement and flood risk for the premises generally was assessed at the time of that approval. That is because the beach area has a different flood risk category to the building here which is set back on the promenade.
- 27 There are no significant structural works that would have an impact on coastal engineering. The proposal relates to mainly cosmetic works to an existing long established building.
- 28 On the basis of the above, the proposal would be compliant with policy CS4 of the Bournemouth Core Strategy.

Biodiversity

- 29 The proposal is regarded as “de minimis” for the purposes of Biodiversity Net Gain as no significant natural habitat is impacted. Natural England do not object. The proposal does not affect any on site habitat.

Planning Balance / Conclusion

- 31 Many of the core strategy policies, and specifically CS6 and CS41, seek to ensure sustainable communities through good quality development, supporting tourism, protecting amenity and enhancing the character of the area. The proposed use currently contributes to the seafront tourism offer. There are no other transport or technical issues. As set out in the report above it is considered that the proposal does not raise any significant planning issues and the proposed changes to the building will be beneficial to the area.
- 32 Therefore, having considered the appropriate development plan policy and other material considerations, including the NPPF, it is considered that the development would be in accordance with the Development Plan and would not materially harm the character or

appearance of the area or amenity. The Development Plan Policies considered in reaching this decision are set out above.

Recommendation

33 GRANT permission for the reasons as set out in this report subject to the following conditions:

Standard three year commencement condition, plus the following:

1. Development to be carried out in accordance with plans as listed

The development hereby permitted shall be carried out in accordance with the following approved plans: 221.5.GA.10d, 02d, 03d

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

2. Prior Agreement of materials

2. Details/samples of the cladding and glazing details to be used on the external surfaces of the proposed development shall be submitted to and approved in writing by the Local Planning Authority prior to the installation of any such materials on site. Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory visual relationship between the existing and the new development in accordance with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

Informative Note: This permission does not convey consent in respect of any advertising on the premises, for which a separate application under the Town and Country Planning (Control of Advertisements)(England) Regulations, 2007 (or any subsequent Order or Regulations revoking or re-enacting these Regulations with or without modification) may be necessary.

Statement required by National Planning Policy Framework

In accordance with paragraph 38 of the revised NPPF the Council takes a positive and proactive approach to development proposals focused on solutions. The Council work with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service,
- as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions,

In this instance:

the applicant was not provided with pre-application advice, but there were not issues raised in the determination of the proposal.

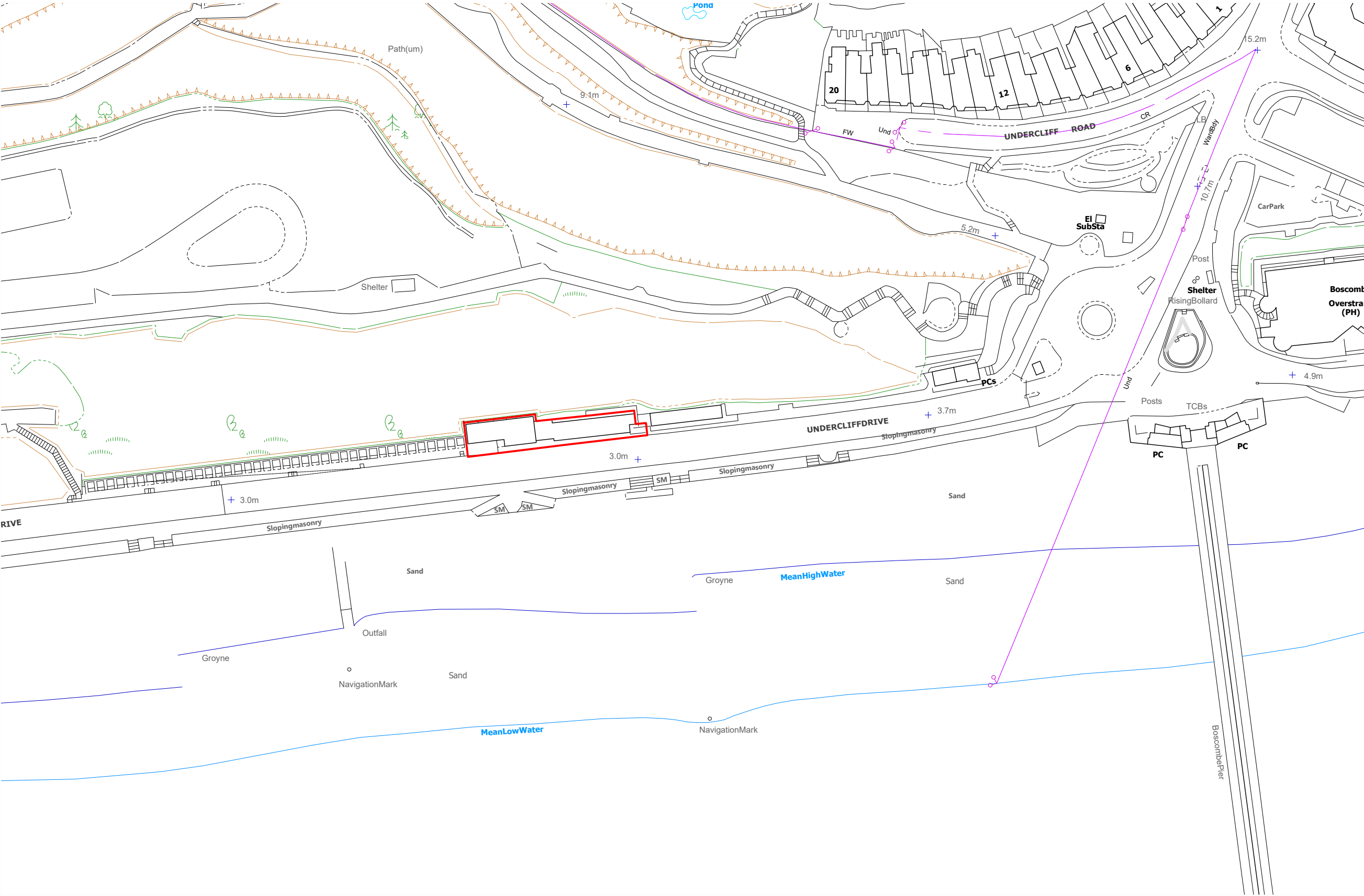
Background Documents:

Documents uploaded to that part of the Council's website that is publicly accessible and specifically relates to the application the subject of this report including all related consultation responses, representations and documents submitted by the applicant in respect of the application.

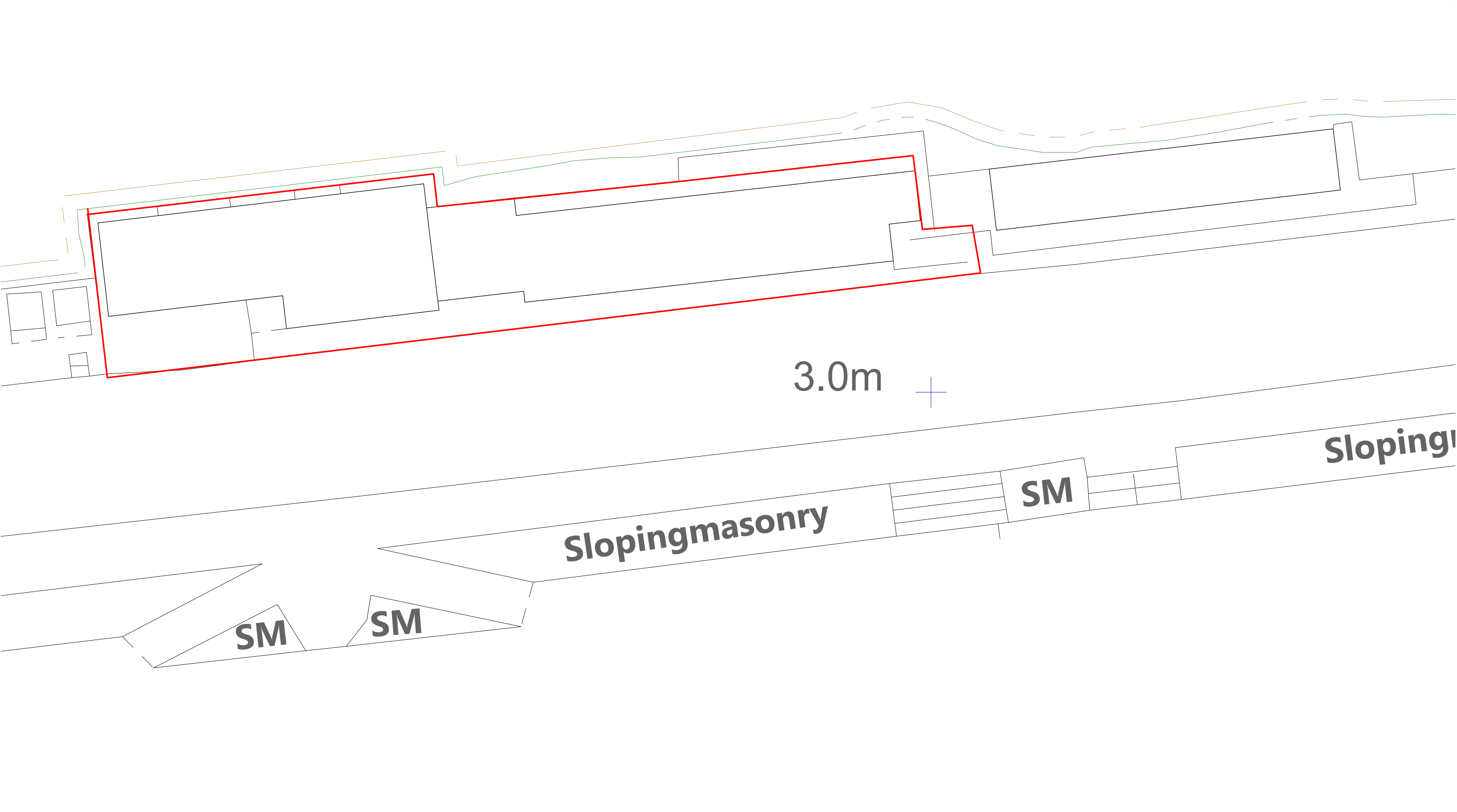
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This excludes all documents which are considered to contain exempt information for the purposes of Schedule 12A Local Government Act 1972.

Reference to published works is not included.

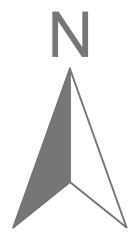
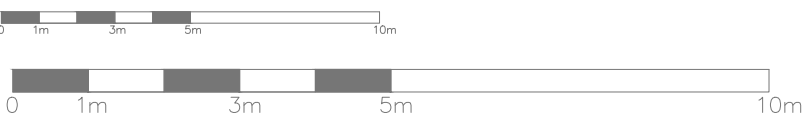


Block Location Plan
Scale 1:1250 @ A1



Proposed Site Plan
Scale 1:200 @ A1

Scale 1:200
Scale 1:100

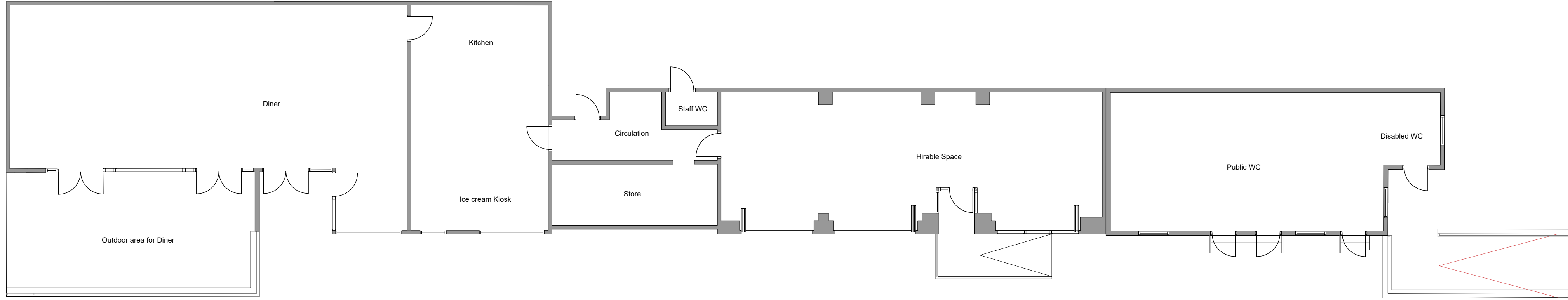


Project.	Prom Diner
Client.	BCP
Drawing Title.	Block and Location Plan & Proposed Site Plan
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Drawing No.	221.5.GA.01d

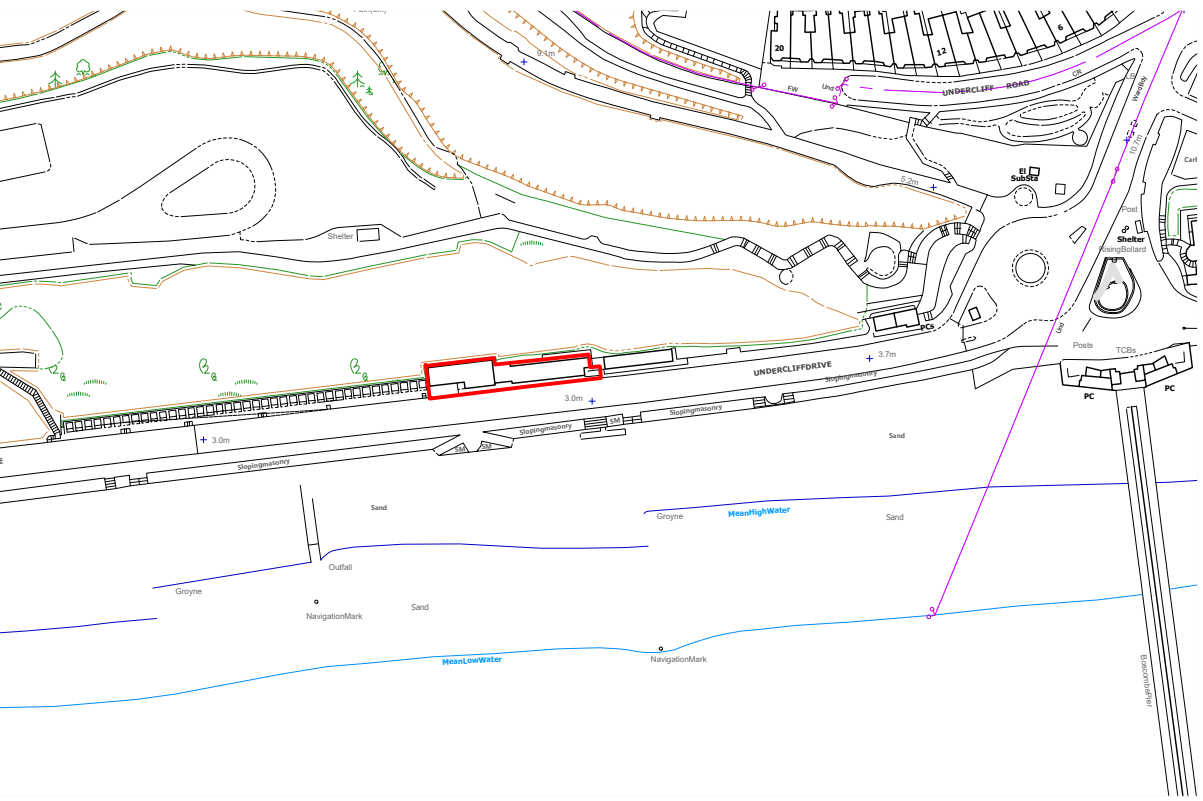
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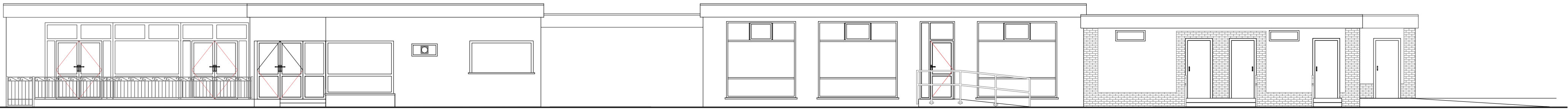
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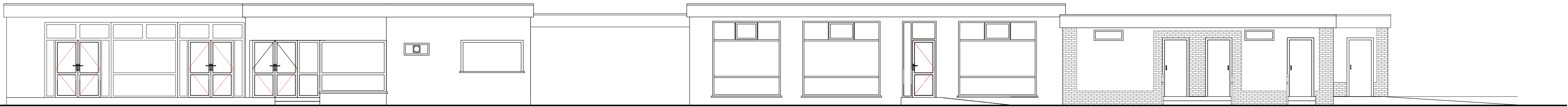
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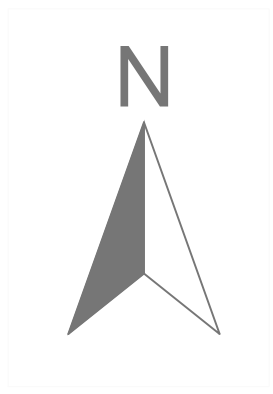
Block and Location Plan
Scale 1:2500 @ A1



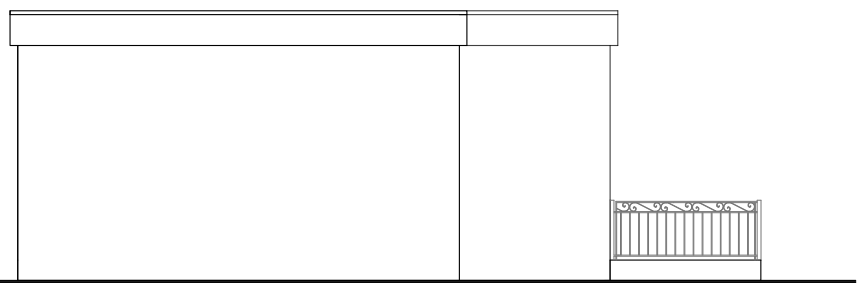
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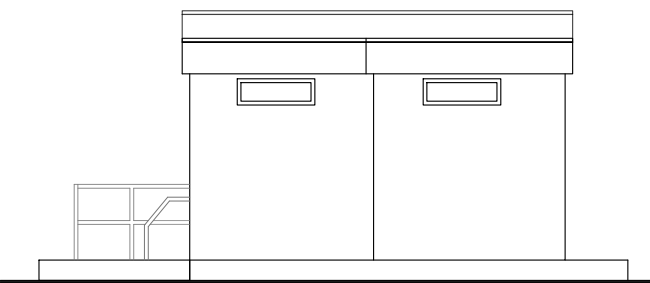
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Project.	Pier View
Client.	BCP
Drawing Title.	Existing Plans and Elevations
Scale.	1:100 @ A1
Drawing No.	221.5.GA.02d



Existing West Elevation
Scale: 1:100



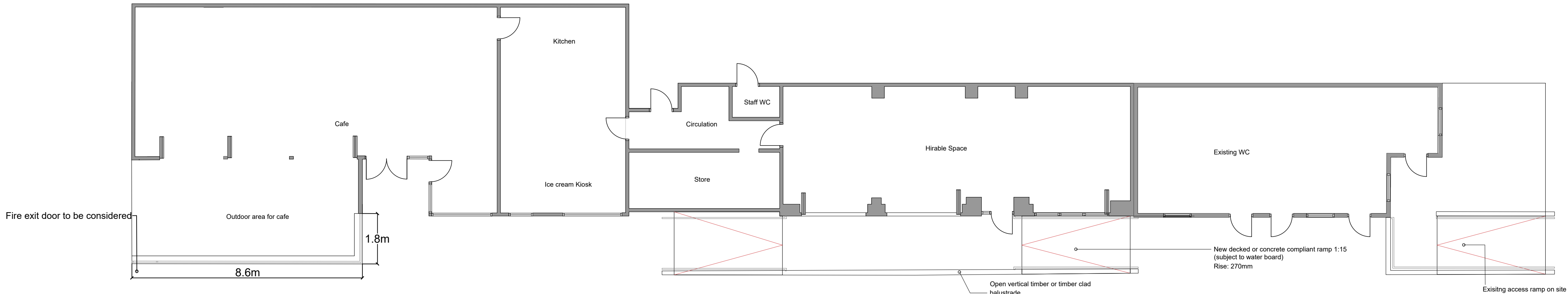
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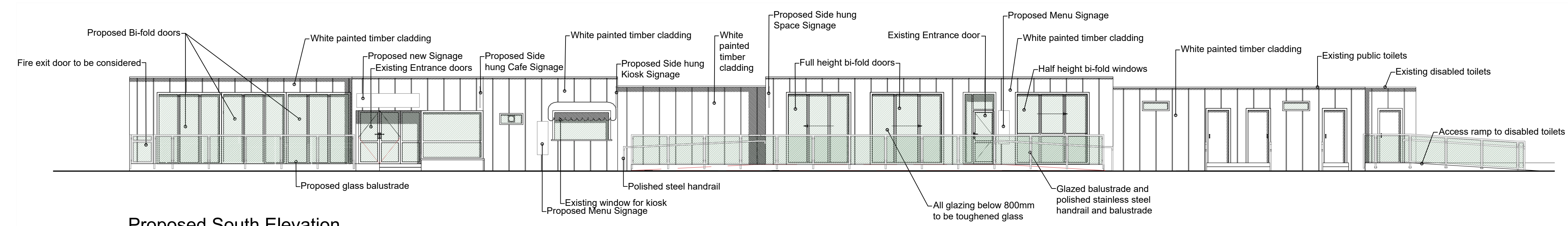
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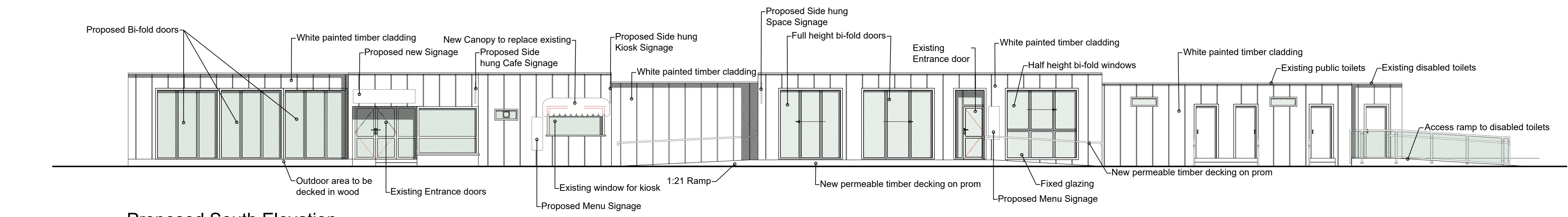
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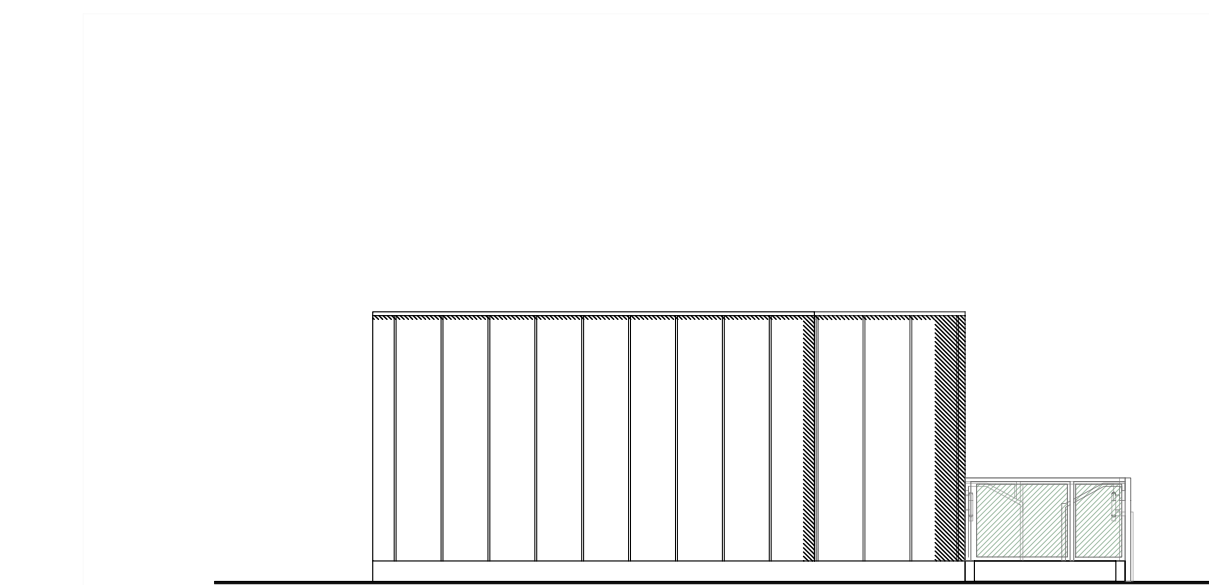
Proposed Ground Floor Plan
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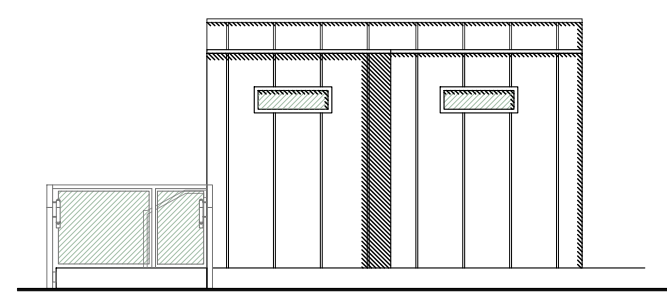
Proposed South Elevation
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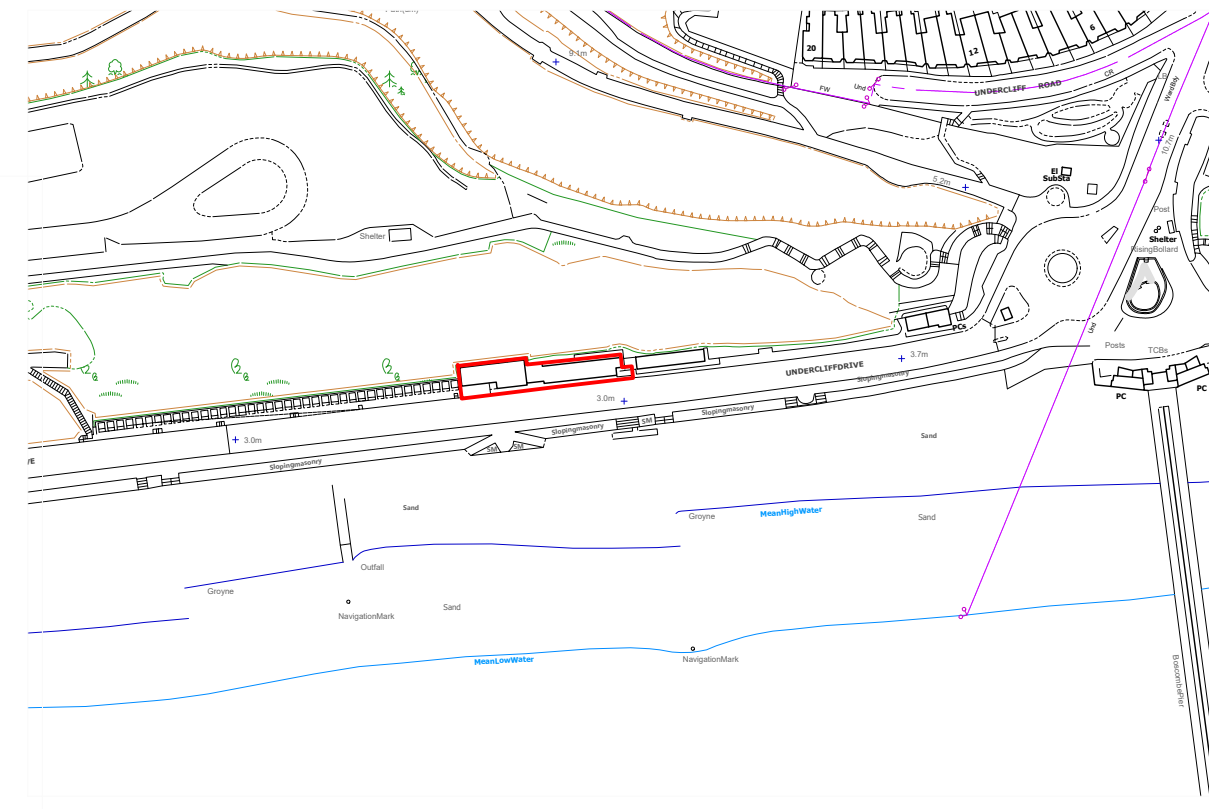
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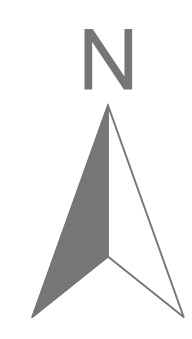
Proposed West Elevation
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Proposed East Elevation
Scale: 1:100



Block and Location Plan
Scale 1:2500 @ A1



Project.	Pier View
Client.	BCP
Drawing Title.	Proposed Plans and Elevations
Scale.	1:100 @ A1
Drawing No.	221.5.GA.03d

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