

PLANNING COMMITTEE



Application Address	Avon Beach Huts Mudeford Christchurch BH23 4AN
Proposal	Part retrospective application for (i) the retention of beach huts no's 63 to 99, and (ii) proposed forward extension of beach huts 23 to 62
Application Number	8/21/0346/FUL
Applicant	Avon Beach Ltd.
Agent	Mr Giles Moir - Chapman Lily Planning Ltd
Date Application Valid	6 April 2021
Decision Due Date	1 June 2021
Extension of Time Date (if applicable)	To be agreed
Ward	Mudeford, Stanpit & West Highcliffe
Report status	Public
Meeting date	24 September 2021
Recommendation	Grant in accordance with the details set out below
Reason for Referral to Planning Committee	The number of objections and support representations has exceeded the threshold of 20.
Case Officer	Sophie Mawdsley

Description of Development

1. This application seeks permission for a part retrospective application for (i) the retention of beach huts no's 63 to 99, and (ii) proposed forward extension of beach huts 23 to 62.
2. Beach huts 63 to 99 have already been extended forward over the last few years and have a depth of 4.2m. The beach huts 23 to 62 currently measure 2.4m in depth and the increased projection is 1.2 metres to 3.6m. The height remains the

same at 3m. The beach huts have a small decked area measuring 1.3sqm at the front.

3. There has been some debate over whether some of the beach huts that have already been extended are lawful with BCP Enforcement – they would be if the works have been substantially complete for more than 4 years. However, there is no Certificate of Lawfulness to establish this and as such this application is looking to seek permission for the retention of the existing extended beach huts as well as the proposed extension of huts 23 to 62.

Key Issues

4. Principle of the development
5. Flood risk
6. Impact on visual amenities and Conservation Area
7. Impact on access along Avon Beach promenade
8. Economic and social benefits of the scheme

Planning Policies

9. Development Plan:

Christchurch and East Dorset Core Strategy 2014

KS1: Presumption in favour of sustainable development

KS2: Settlement Hierarchy

KS11: Transport and Development

HE1: Valuing and conserving our historic environment

HE2: Design of New Development

HE3: Landscape Quality

ME6: Flood management, mitigation and defence

Christchurch Borough Council Local Plan (2001)

BE4: New development in Conservation areas

Supplementary Planning Documents and guidance:

- [Mudford Quay Conservation Area Appraisal & Management Plan \(2008\)](#)
- [Christchurch Borough-wide Character Assessment \(2003\)](#)

The National Planning Policy Framework (2021)

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 12 Achieving well-designed places

Section 15 Conserving and enhancing the natural environment

Section 16 Conserving and enhancing the historical environment

Relevant Planning Applications and Appeals

8/17/1748/FUL - To raise the middle section of Avon Beach Promenade by 900mm over approximately 250m to improve flood and coastal erosion risk protection by joining the new retaining structure into existing raised defences at either end of the promenade. Widen promenade by 1.5m. No change to its present mixed public usage. New surfacing and two bench seating areas.

Representations

10.99 representations have been received **objecting** to the scheme on the following grounds;

- Extended as first move to support overnight stays
- Widening of promenade and improved access negatively impacted upon by beach huts extension
- Widening of promenade was for benefit of locals and visitors and from public money
- Reduced walking area on promenade and creates a bottleneck
- Restricted access for mobility scooters, wheelchairs and pushchairs
- Functionality of promenade cannot be compared to highway environment
- Insufficient access for emergency services
- Fire brigade require access

- Highway comments incorrect and do not appreciate situation on site
- Health and safety issue
- Severely damaging to overcrowded beach area
- Clutter (tables, chairs, etc) outside beach huts
- Takes away a public amenity
- Antisocial behaviour from users of beach huts
- Council has duty of care concerning Covid 19 – social distancing very difficult
- Low Council priority for Covid 19, public safety, disabled access and rights of way
- Need to maximise promenade space for social distancing
- Encroachment on public right of way
- Obstruction of public open space
- Not compromise these spaces by overdevelopment
- Area around Noisy Lobster is already heavily congested
- Commercial activity taking over the beach
- Increased number of incidents and accidents
- Bigger huts will attract bigger groups of people and parties
- Not in keeping with established character of the area

11. **110 support** representations and **1 petition with 135 signatures** have been received on the following grounds;

- Asset to Avon beach
- Support local businesses
- Improved facilities
- Attracting visitors to Avon beach
- Supporting local economy and good for vitality of area
- Excellent employer and tenant
- Imperative access for everyone is encouraged, improved and developed.
- Larger beach huts provide easy access to disabled, hearing and visually impaired people and for changing children and adults.
- Asset to the community
- Beach huts will not obstruct the public

- Easily accommodated on a wide promenade and good expanse of beach
- Promenade still be wider than Friars Cliff
- Enhance services and facilities
- Encourage people to stay in this country for holidays
- Generate tourism
- Provide weekly lets for tourists
- Continued investment in infrastructure of the area
- Great atmosphere and ambience
- Extended beach huts no more than original size of the previously damaged ones
- Pastel beach huts look lovely
- Best beach in BCP area
- Enhance and improve local area for residents and seasonal visitors
- Conservation Area remain unharmed

Consultations

- **Christchurch Town Council** – Objection due to the restriction of the width of the footway impacting upon the amenity of footpath users contrary to policy HE2 of the Local Plan.
- **BCP Conservation/Heritage** - The conclusion of the Heritage Statement (dated March 2021) by Elaine Milton Heritage & Planning is agreed broadly with. The statement notes '*The beach huts are of traditional design and appearance in keeping with the 20th century seaside development of the area*' and goes on to suggest the already extended beach huts has not resulted in harm to the character or appearance of the conservation area, and that the proposed extension to 40 beach huts would not detract from the character or appearance of the conservation area.

The above said, consideration must also be given to trees as these are important to the visual appearance of the conservation area. Overall, subject to the Council's Tree & Landscaping Officer being satisfied, **no objections are raised** with regards to heritage assets.

- **BCP Rights of Way** – no formal response but see paragraph 26 below.
- **BCP Highways**

Revised comments received 10/08/21 - The applicant has submitted additional information including a revised *Site Plan* (Proposed) and a drawing showing an *Analysis of the Promenade Width*. This information confirms that the proposed

development of beach huts no. 23 to 63 will result in a width ranging between 5.0-5.6m for the section of promenade fronting the huts.

A minimum available width of 5m is considered sufficient for the free flow of pedestrians and maintenance vehicles and does not preclude emergency service vehicles including fire engines.

Pursuant to paragraph 111 of the NPPF (2021), the residual cumulative impact of this proposal is not considered to have a severe impact on the operation of the local highway network nor the safety of its users and is therefore acceptable

Comments received 17/05/21 - BCP Council owns the promenade and adjoining beach area, but this is leased to the tenant of the Noisy Lobster who in this instance, as the café operator, also has control of the promenade and beach area. The tenant has the normal day to day responsibilities for the promenade, but the Council is responsible for the repair of the structure of the promenade because of its function as a sea defence structure.

Consequently, the section of promenade subject to this planning application is not a formal public right of way despite the public being permitted access. The council's Rights of Way officer has confirmed that Public Footpath no. 24 runs to the rear of the café and beach huts, along the coastal slope.

Whilst the Local Highway Authority (LHA) acknowledges that the extended beach huts at no's 63-99 as well as the proposed extended beach huts at no's 23-62 have, and will, reduce the width of the promenade relative to its condition prior to such works. Notwithstanding this, the remaining width of the promenade ranges between 5.5m and 5.9m which is sufficient for the free flow of pedestrians and maintenance vehicles and does not preclude emergency service vehicles including fire engines.

The narrowest point of the promenade, to the west of the application site, was recorded between the Avon Beach Convenience Shop and the adjacent pedestrian barrier at 3.7m. It should also be noted that the resultant promenade widths presented above exceed widths measured at sections of promenades at neighbouring Southbourne Beach and Bournemouth Beach, in proximity to Undercliff Drive and Friars Cliff. Promenade widths at each of these beaches, when scaled from Google Mapping and StatMap, are respectively 4.5m, 4.5m and 3m.

This proposal is not considered to result in an unacceptable impact on highway safety, nor a severe impact on the operation of the highway network. Consequently, in accordance with paragraph 109 of the National Planning Policy Framework (2019), the LHA would be unable to substantiate a reason for refusal.

- **BCP Lead Flood Authority**

The Flood risk assessment (within the D&A statement – sect 7) for such a vulnerable site is very minimalist. A big storm could wipe out the existing beach huts and will also be able to wipe out the replacement ones. Climate change and sea level rise only makes this more likely in the future – I suppose it is a case of "let the buyer beware".

- **BCP Trees & Landscaping**

In principle the proposed extension to beach huts 23 to 62 can be undertaken. Similar works have already occurred to huts 63 to 99. The Tree and Landscape Officer's main concern with the proposed works, is the possible mixing and/or storing of building materials within the root protection area of a prominent belt of trees running behind the huts. These trees, consisting mainly of Holm Oaks, sit within Mundeford Quay Conservation Area and are growing on Council Land.

Therefore, the applicant/agent needs to confirm the areas proposed for the storing and/or mixing of building materials, before any works begin on site. The Officer also notes the possible future pressure to prune back the canopies of these Oaks from beach huts. There was evidence of some unsympathetic pruning works having been carried out on some trees.

- **BCP Destination & Culture**

The site is within the Mundeford Quay Conservation Area and it forms part of the promenade which serves Avon beach. Beach huts are already in situ on the application site, an established characteristic of the area.

The provisions of the Lease for Avon Beach allow the tenant to erect beach huts on the promenade within their demised lease area without the landlord's consent being required. There is no requirement for consent from the landlord, other than to abide by planning regulations, to alterations to these beach huts as per this application.

Provided that adequate unimpeded access is maintained along the prom (including for emergency and service vehicles), and the current function of daytime use is maintained i.e no change of use to allow for overnight stays, the Tourism office would not object to the application.

Constraints

- Conservation Area
- Flood Zone 2 (2019)
- FZ3a 30cc 2093
- FZ3a 40cc 2133
- SSSI Impact Risk Zone
- Heathland 5km Consultation Area

- Rights of Way
- Coastal Area (Policy)
- Wessex Water Sewer Flooding

Planning Assessment

Site and Surroundings

12. The application site forms part of the promenade along Avon Beach. Beach huts are a common feature of this locality and many parts of the BCP coastline. The promenade which sits lower than the above embankment and highway is within the Mudeford Quay Conservation Area and has a backdrop of mature trees which are protected by virtue of their location within the Conservation Area.
13. To the west, the Noisy Lobster café is located along with outdoor seating, public toilets and Avon beach shop. There is a car park beyond this to the west and an additional car park to the north off Avon Run Road.
14. The promenade is publicly accessible; however it is not a formal definitive right of way. A public footpath runs along the top of the coastal slope behind the beach and promenade along this stretch of Avon beach. It is not defined as public open space in the Local Plan.
15. BCP Council are the landowners of the promenade; however the applicant Avon Beach Ltd are the leaseholders of this area and the lease enables them to carry out development.

Principle of development

16. The use of the promenade for the siting of beach huts has already been established. However, the forward extension of huts 63-99 took place over the last couple of years and this application not only seeks to regularise this situation but increase the size of huts 23-62. As stated by BCP Culture & Destination, the provisions of the Lease for Avon Beach allow the tenant to erect beach huts on the promenade. The seafront is a key asset for BCP. The provision of beach huts adds vitality to the seafront, brings in visitors and visits and thereby have significant social and economic benefits. Avon Beach is a hub of existing facilities as set out above, encouraging visits to the seafront & the huts would be complimentary to this.
17. Planning permission was granted in 2017 for works to raise and widen the promenade to provide an improved flood and coast protection risk management structure of Avon Beach. The preceding Christchurch and East Dorset Council carried out these works.

Flood risk

18. The site does lie within current flood zone 2 and also within future flood zone 3a for 2093 and 2133. However, beach huts would fall under water compatible development (water-based recreation – excluding sleeping accommodation) as

set out in Table 2 of para 066 of the Planning Practice Guidance for flood risk and therefore are considered appropriate within the flood zone.

Visual amenities and Conservation Area

19. The existing huts and proposed extended huts are of a traditional beach hut form with pitched roofs and a single door on the front elevation. Their overall roof height is not being altered as part of the proposals. Three pastel colours will be used in green, blue and pink/cream. It is considered the extended beach huts will not disrupt the rhythm and pattern of development along this section of the promenade and it is not considered the huts would have a detrimental impact on the visual amenities of this coastal setting. The existing extended huts do not appear intrusive along the promenade and the proposed beach huts to be extended would not result in an increase in their dominance along this section of the beach and promenade.
20. The beach huts currently form part of the character of the Conservation Area with the mature trees along Avon Run road providing a sylvan backdrop to this coastal locality. A Conservation Area Appraisal (CAA) was adopted by the preceding Christchurch Borough Council in 2008. The Townscape Appraisal accompanying the CAA identifies the mature trees along Avon Run Road above the promenade as Important Trees. No important buildings, landmarks, views or spaces are identified in the CAA in the vicinity of the site. The Conservation Area Appraisal does not identify the site as being within a Character Area within the appraisal.
21. In the conclusion section of the CAA it is recommended that the Conservation Area boundary be redrawn to reflect recent development and in recognition of where the local authority's resources should be focused. The document concludes the areas proposed for removal have no historic buildings and very little evidence of historic development that relates directly to Mundeford or Mundeford Quay (p.40).
22. The adopted CAA recommends that the trees along Avon Run Road be protected via a Tree Preservation Order (TPO) as a better form of protection and concludes "*This would then permit the removal of Avon Run Road and the promenade from the conservation area, the current purpose of which seems only to protect these trees.*" Notwithstanding this, the site remains within the conservation area. There is not considered to have been any material changes in the contribution of the area around the site to the Conservation Area since the adoption of the CAA. The site remains a commercialised area of the beachfront with a large open car park, promenade and modern buildings which does not contribute to the historic character of the Conservation Area.
23. It is considered that for the reasons above, the extension to the size of the beach huts would not cause harm to the setting and significance of the heritage asset, the Mundeford Quay Conservation Area. The proposal is considered to comply with policy HE1 of the Local Plan and paragraph 197 of the NPPF. In reaching this decision the Council has had due regard to the statutory duty in Section 72 of

the Planning (Listed Buildings and Conservation Areas) Act 1990 which states that “with respect to any buildings or other land in a conservation area, ... special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”

24. The scheme results in less than substantial harm to the heritage asset. Applying the guidance in paragraph 202 of the National Planning Policy Framework (2021), this impact must be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The scheme will facilitate the ongoing use of the site for public use of the beachfront, which is considered to be its optimum use and the public benefits in this case are considered to significantly and demonstrably outweigh any harm to the heritage asset.
25. The trees to the rear of the beach huts between the promenade and Avon Run Road area are a key feature of this location. The majority of them are mature Holm Oaks. The extended beach huts are very unlikely to cause harm to these protected trees given the change in ground levels and the modest scale of the beach huts; however any storage of materials or construction traffic need to ensure the root protection areas are not damaged. This can be secured by condition through a construction management plan.

Access and use of promenade

26. Currently, the promenade has a depth of between 4.9m (front of No 64) and 6.8m (front of No 23) in front of the beach huts. With the retention of the already extended huts and the proposed extensions, this will reduce to a minimum of 5m in front of 23 to 62 and between 4.9m and 6.2m to the front of no. 63 to 99 beach huts.
27. It is clearly recognised that the proposal will reduce the space for people to use the promenade and with the possible siting of tables, chairs and other beach paraphernalia outside of the beach huts, this further reduces the width. It is noted however that this is an existing issue.
28. As BCP Highways have stated, it is considered that the remaining width of the promenade is sufficient for the free flow of pedestrians and maintenance vehicles and emergency access. They have provided the following information; ‘*To provide some context, the Department for Transport publication Manual for Streets (2007) states that the static envelope of an adult and child to walk adjacent to one another is 1.2m whilst 1.5m is needed for an adult and pushchair to pass. These considerations coupled with additional overhang for the dynamic envelope of a pedestrian (walking) inform the minimum design guidance for footways and walking infrastructure today. The IHT publication Providing for Journeys on Foot (2000) refers to generic design guidance for footways, including absolute minimums (1.8m) and desirable minimums (2m). A key parameter in deciding suitable footway width is the volume of pedestrian flow which in this instance significant.*

29. It is clear that this is an extremely busy location and beach destination and given the pandemic, public amenity outdoor space is extremely important to everyone. BCP Tourism Liaison Officer is satisfied that as long as access is maintained the scheme is acceptable. The proposed development is not considered to impinge on access along the promenade to a harmful degree to warrant a refusal of the application.
30. It is considered that the minimum width of 5 metres to the front of huts 23 – 63 and the minimum width of 4.9m to the front of the huts 64 -99 is sufficient to ensure unobstructed access for pedestrians, mobility scooters, wheelchairs and pushchairs and provide adequate emergency access. In accordance with section 149 Equality Act 2010, in considering this proposal due regard has been had to the need to (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
31. There have been queries over the promenade being a public right of way or open space. Currently, the promenade is not a Definitive Public Right of Way or classified as Public Open Space under the Local Plan. BCP Rights of Way have stated that the *'nearest Public Footpath to the proposed beach hut development is E61/24, which passes along the raised path behind the beach huts, therefore the proposed development is not anticipated to affect Public Rights of Way. The objections relating to the status of the promenade also having a Public Right of Way designation refers to its status as European Long Distance Path E9, however this designation does not confer any public right of access, it is a promotional title only'*. The possible status of the promenade as a public right of way would be a separate process to the determination of this planning application.

Summary

32. It is considered that the extension of the beach huts would not give rise to an adverse impact on the visual amenities of this coastal area. The overall scale and appearance of the structures on the promenade would not cause harm to the character and appearance of the Conservation Area. There are considerable economic and social benefits to the provision of beachfront facilities.
33. The access along the promenade would be retained at a sufficient width to ensure unobstructed access for pedestrians, mobility scooters, wheelchairs and pushchairs and provide adequate emergency access.

Planning Balance

34. The council encourages sustainable development. This seeks to strike a balance between the economic benefit of the development, the environmental impacts

and the social benefits derived by the provision of recreational and amenity facilities.

35. The reduced width of the promenade resulting from the extension of the beach huts and the siting of associated beach paraphernalia will have an impact on the access along the promenade; however it is not considered to be detrimental to the users of this space to warrant refusal of the scheme. This is also a pre-existing issue that existing beach hut users could obstruct the promenade. There are significant social and economic benefits to the provision of beachfront facilities and considerable weight is attached to this benefit.
36. It is considered the proposal complies with the Development Plan as a whole and is sustainable development which as per para 11c) of the NPPF 2021 means it should be approved without delay.

RECOMMENDATION

37. Approve subject to conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990.

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

6058-WLA-ZZ-XX-DR-A-0010 C Location & Block Plan
6058-WLA-ZZ-XX-DR-A-0101 E Proposed Site Plan
6058-WLA-ZZ-XX-DR-A-0104 Proposed Plans & Elevations Huts 23-62
6058-WLA-ZZ-XX-DR-A-0103 D Proposed Plans & Elevations Huts 63-99
6058-WLA-ZZ-XX-DR-A-0102 C Existing Plans & Elevations
6058-WLA-ZZ-XX-DR-A-0100 F Existing site plan
6058-WLA-ZZ-XX-DR-A-0105 A Analysis of promenade width

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

3. Prior to the commencement of development, a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The plan must include details of the areas for storage and mixing of materials during construction and details of any restrictions to access along the promenade. Development must be carried out in accordance with the approved plan.

Reason: In the interests of tree protection and highway safety

Background Papers

Case File ref 8/21/0346

For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

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. This excludes (1) all documents which are considered to contain exempt information for the purposes of Schedule 12A Local Government Act 1972; (2) published works.