



Planning Committee

Application Address	The Beach House Café, Mudeford Sandbank, Bournemouth BH6 4EN.
Proposal	Erection of a single storey building for use as a cafe, involving demolition of existing open-air café
Application Number	7-2022-11229-P
Applicant	Mr K Slater
Agent	CL Planning Ltd
Ward and Ward Member(s)	East Southbourne and Tuckton Cllr Eddie Coope Cllr Malcolm Davies
Report status	Public Report
Meeting date	15 December 2022
Summary of Recommendation	Grant in accordance with the details set out below
Reason for Referral to Planning Committee	No of objections relative to report recommendation exceeds threshold of 20; (96 object, 51 support).
Case Officer	Franc Genley

Description of Proposal

- 1 Full planning permission is sought for the demolition of the existing open-air café / restaurant and bar comprising the covered seating area, the store buildings, electrical substation and gated service alley; and the erection of a replacement an enclosed single storey roofed building for use as a café/ restaurant / bar with ancillary storage and replacement electrical substation within.
- 2 The replacement building would be one storey high with the proposed roof design seeking to replicate the existing beach huts, bringing several beach hut forms together to form one block but in a slightly higher and wider format befitting the identity of a commercial building. The forward part, nearest the harbour would have a retractable roof (much like the temporary structure on site, with the central and rear portions featuring beach-hut like ridged roofs.
- 3 The building will be simply constructed, like the beach huts and retain a lightweight appearance, with a glazed and silvered/weathered exterior. Internally, a large open-

plan floor with posts and beams supports the pitched roofs over, providing a flexible and naturally lit floor space. Upon arrival, visitors will enter into a glass roofed 'courtyard atrium' where the central servery is located, flanked on either side by dedicated space for sit-down eating and take-away waiting. To the rear (east) of the space, in a similar position to the current outbuilding sits an integrated replacement electrical sub-station, proper storage, prep and kitchen areas, a new WC facility for customers and staff and a replacement shop unit to serve beach hut owners and tourists. The shop has its own external entrance. The remaining floor plan towards the harbour (west) opens-up to an enclosed external deck seating area with retracting roof. Side windows are limited in number and fixed angled vertical louvres to the sides of the seating area are designed to address privacy and prevent any overlooking into adjacent huts. A simple landscaping scheme is proposed along the site perimeter using dune stabilizing grasses. The facing cladding materials will be non-combustible and pre-silvered in appearance, robust and capable of withstanding prevailing winter weather.

- 4 The building destroyed by fire in 2018 covered about two thirds of the site, with a range of outbuildings, open air storage and car parking taking up the rest of the site. The remnants of the burnt structure have been removed from the site and the use continued in the remaining parts, augmented by shipping containers intended for temporary use, but regrettably installed without benefit of planning permission (see paras 11-14). The footprint of the original pre-fire building plus the service alley and outbuildings to the rear of the main building amounted to approx. 431sqm. Paragraphs 15-17 of this report set out that the LPA consider sufficient evidence exists to support the operator's claim of immunity from enforcement in respect of the 431sqm operational footprint comprising buildings and the service alleyway. As such, the proposed built floorspace would comprise 411sqm, and sit within the 431sqm outline of established operational space. The 45sqm of parking space, 30sqm housed within the gas tank store and 12.5sqm of substation, combine to give a site area of approx. 519sqm (or 0.05ha). Proposed plans show the proposed footprint relative to that of the previous approval 11229-O, which itself replicated the burnt down 1960s footprint. The redline of the site includes the associated parking spaces previous decking and the enclosed, roofless tank as part of the established planning unit's curtilage (total site area). The following tables compare the proposal and approved scheme with the approximate details the LPA has available for the pre-fire café.

Table P1: Comparison of Original 1960s, 2021 Approval and Proposed cafés on site

	1960s Pre Fire	2021 Approval	Proposal
Site area (approx.)	0.05ha	0.05ha	0.05ha
Depth of building at longest point (*excluding rear outbuildings/ alley) (**including rear outbuildings/ alley) (***Including screened deck to west)	(approx.) 15m* 22m**	14.9m* 21.55m**	21.55m***
Width at widest point (excluding open deck to south)		22.5m	18.2m
No of storeys	1	1	1
Height at ridge from highest ground	4.2m	4.4m	4.7m
No. of Car parking spaces	2 spaces	2 spaces	2 spaces
No of Cycle parking spaces	informal	none	8 spaces

Table P2: Comparison of floorspace allocations (using descriptions on previous applications)

	1960s Pre Fire	2021 Approval	Proposal
Sit down Café / Eating Area	254	159	89/72 (161)
Prep/WC	Part of 254	74.5/5.5	44/13.5
Servery	Part of 254	Part of 159	21
Shop	-	16	15.5
Take Away	Part of 254	Part of 159	76
Storage (alley & outbuildings)*	130	130	-
Storage (internal)	-	-	40
Total	384	385	371
Entrance deck	38	24	40
Open deck	9		-
Total Combined	431	409	411

All figures comprise square metres (sqm). * see Table 4

Table P3: Comparison of floorspace allocations (Using descriptions on proposed plans)

	1960s Pre Fire	2021 Approval	Proposal
Internal Restaurant	254	93	89
External Covered Restaurant Area	-	66	72
Services & Store/Shop/Kitchen	130	135.5/16/74.5	113
Take-Away	-	-	76
Order Point & Servery	-	-	21
Entrance deck	38	24	40
Open deck	9	-	-
Total combined	431	409	411

All figures comprise square metres (sqm)

- 5 It is proposed to set the hours of opening to between 08.00 – 00.00 daily. No previous conditions control the hours of opening with regard to the use established over time, but compared to the 2021 11229-O approval, this would represent an increase from the 10.00-23.00 hours that permitted. An improved bin store corral is proposed adjacent to the existing bin store to the rear of the current community/coffee shop opposite the main entrance. Servicing will be way of delivery van and refuse collection vehicle.
- 6 Additional plans were provided in early October to demonstrate comparisons between previous approvals and to clarify the allocation of floor areas to take-away, café, sit-down cover, kitchen, storage and service functions. The plans also added two cycle spaces and clarified bin storage location. The application is accompanied by:
 - a Flood Risk Assessment by STM environmental
 - an Ecological Appraisal Report by Hampshire Ecological Services Ltd.
 - Public consultation summary (January 2022) “The Good The Bad The Hutties”

Description of Site and Surroundings

- 7 The application site is located on Mudeford Sandbank, right at the eastern edge of Bournemouth, and close to the former administrative area of Christchurch Borough. The Beach House faces onto Christchurch Harbour on the western side with its rear facing beach huts on the spit. On the eastern side, beach huts sit immediately to the rear on the seaward (east) side, closer to the sea than the Beach House Café. There are further beach huts on the northern and southern sides, with the huts extending the full length of the Spit, to Hengistbury Head to the south and Mudeford Quay to the north.
- 8 To the west of the site sits the jetty served by the local ferry, accessed across the unsurfaced roadway and beach. Public toilets sit to the south of the site, in amongst the beach huts. The bin store corral sits adjacent to the community store, housed within the office building to the south of the café site. Picnic tables with seats sit outside the café to the south and west.
- 9 The site falls within flood zone 3a, this proposal for a replacement café is classed as 'less vulnerable use' using the definitions as set out in the Flooding Technical Guidance (2012). Therefore, the users of the development will be placed in no greater danger than using the existing café. This application is supported by a site-specific flood risk assessment by STM environmental which sets out the flood resistant and resilient measures incorporated into this proposed replacement building.
- 10 **Relevant Planning History:**
- a) **7-2004-11229-J:** *Alterations, extensions, erection of extractor flue and decking area (Existing unauthorised).* **Approved Oct 2004.**
 - b) **7-2018-11229-K:** *Construction of temporary floating jetty and decking adjacent to front of beach house.* **Withdrawn Jul 2018.**
 - c) **7-2018-11229-L:** *Alterations and extension to external decking area.* **Withdrawn Mar 2018**
 - d) **PRE-11229:** *Proposed New Beach House Café - Response Jan 2020.* The Pre-App provided a detailed response to the Applicants ahead of the formal application to re-build the new – taller Café (11229-M, see below), a summary of which was presented in the officer assessment report for 11229-O (see below).
 - e) **7-2020-11229-M:** *Erection of Café with associated storeroom, etc - Withdrawn Dec 2020.* This submission proposed a taller pitched roof design (two floors) and marginally larger footprint, however this was eventually withdrawn after several months of consideration and public consultation. Over 250 objections were received from 219 objectors. The comments within the 11229-O report are important in the timeline as to why application 11229-M was withdrawn as they explain the opposition to the new design from 'residents' of the beach huts.
 - f) **7-2021-11229-N:** *Use of land for the temporary siting of 4 storage containers in connection with the existing use of the site for the sale and consumption of food & refreshments - Existing unauthorised – Pending 28 Objections 1 letter of support.*
- 11 The 4no. shipping containers were placed on land without planning permission, in 2019 to enable the Café to continue operating. The Council owns the land, and once the

national easing of outdoor licencing in response to Covid19 reverted, the LPA secured the submission in Feb 2021 of the retrospective application (11229-N) for their temporary retention. However, the case was again paused while the application 11229-O was considered. It has remained on hold whilst this proposal (11229-P) has been under consideration.

- 12 The retrospective proposal 11229-N received 53 objections with one letter of support. The applicant's agent on that proposal (the same applicant as this current one) stated in correspondence that: *"by far the biggest objection was to the fact that we've placed a container outside the original building perimeter (but within the site boundary).... Although this has the greatest number of mentions the objections aren't against the temporary container per se, but that its location should not set precedent for future development. I'm not sure that this would be viewed as precedent for future development by planning anyway, nor is it our intention that any future rebuild would utilise this footprint area."*
- 13 Three of the containers occupy space within the footprint of the café subsequently granted by permission 11229-O. The single square container placed outside of this area, to the north of the historic Café compound does not fall within the approved building footprint area, but it does sit on land licenced to the café operator for parking (see paragraphs 15-17) and within the established planning unit. This application does not seek to resolve the status of the containers as that matter is dealt with in the retrospective application 11229-N. It is intended that the retrospective 11229-N will be presented alongside this new-build application at the same committee. This planning application 11229-P does not propose built footprint over the square container, but reverts the area to staff parking.
- 14 The necessity to determine or take action to remove the containers will be informed by the outcome on this current proposal and the assessment of the 11229-N application.
- g) **7-2020-11229-O: *Erection of Cafe with associated storage including bin store - regulation 3** – Approved Oct 2021.** The previous, more controversial proposals to extend upwards with a new roof (11229-M) having been deleted, this revised application secured planning permission to replace the Beach House Café on an identical footprint, design and similar height (0.2m higher). Only 1 objection was received. This application was a Regulation 3 (1992 T&CP Regulations) as the applicant and developer was 'the Council'. This approval has not yet been implemented on site (see paras 17-18)

Lawful Use of the site

- 15 The concerns raised by objectors in respect of the perceived increases in footprint are noted. However, the activities, use and structures on the site have been investigated and assessed by the Planning Enforcement Team during the shipping container complaint. The concurrent application 11229-N seeks retrospective temporary consent for the containers, but the issue of what comprised the planning unit and lawful use of the site were considered during that investigation. The conclusions were that the containers needed permission but that the continuing use of the site comprising the planning unit as a café/restaurant was lawful.
- 16 It is important to note some key findings of the investigation:
 - a) Use of the site as a café/restaurant and community shop with ancillary storage and service areas to the north and east of the original café building (comprising the side parking and rear outbuildings) [and as it existed in 2018] commenced on the site between 2004 and 2008;

- b) A sufficiently broad evidence base exists in the public domain, on Council files, and from staff and operator declarations to support and corroborate the established parameters of the lawful use during the stated period;
- c) The parameters of the lawful use include the use of the rear service alleyway for the storage of goods for sale, waste, recycling and various plant and equipment; but also for the passage between the main building and the outbuildings and for the undertaking of servicing arrangements.
- d) No substantive alterations to the intensity of use or manner of operations are known to have occurred between 2004-2018, with the parameters of the 'lawful use' thus continuing without substantial interruption for a period of 10 years. With reference to section 171B of the Town & Country Planning Act 1990 (as amended) the use as established became exempt from enforcement action, or the need to apply for retrospective planning permission sometime between 2014 and 2018;
- e) The 'lawful use' of the planning unit/site is not constrained by any planning conditions relative to opening hours or amplified music, though previous permissions do permit/require waste to be stored to the rear of the site in the service alley;
- f) The issue of hours of opening, amplified/live music playback and alcohol sales are regulated by the Licencing Act 2003, as administered by the Licencing Team and issued Licences;
- g) Permission for the operator to use the site and structures within the planning unit as a café/restaurant with ancillary bar and community shop are currently governed by the provisions within the leases issued by the Council.
- 17 Specifically, with regard to the post fire 'development', the LPA considers that the:
- Repair and maintenance of the structures that survived the fire **did not** comprise new development;
 - Erection of the containers, by way of their manner of installation requiring heavy plant and machinery, no. of persons involved, the necessary time and forward planning, along with their means of fixation to the ground, connection to utilities etc, **did** comprise operational development, requiring planning permission;
 - Continued lawful use of the site (the planning unit) as a café/restaurant has **not** been altered by the fire, nor by the placement of the containers and remains as established.
 - The hiatus in use resulting from the national/global Covid lockdowns did not interrupt or alter the established lawful use of the site;
- 18 This proposal seeks to demolish all existing structures, with the exception of the gas tank enclosure and erect a replacement building within the red edged site outline on plan that comprises the established planning unit. The red lined incorporates the rear service alley and outbuildings/enclosure to the rear. This compares with the recently approved 11229-O application which sought to retain the wooden outbuilding, gas store shed, gas enclosure and gated alleyway as they existed, and retain them in ancillary in use to the café/restaurant/shop functions. Whilst that application did grant a full fresh planning permission for the replacement café structure/compound, with set hours of use and noise controls; it comprised one particular permutation of a rebuild scheme and did not diminish or reduce the extent and parameters of the lawful use or the operational footprint of the beach café that had been established in the ten years prior to 2018.
- 19 The 11229-O permission has not been implemented on site. The ongoing use operates from the temporary shipping containers, repaired structures and those that survived the fire - all placed or re-erected on site before the 2021 proposal was submitted or approved. The 11229-O was not a retrospective proposal and none of the pre-commencement conditions have been discharged. It is the considered view of the LPA that the 2021 'O' suffix application therefore remains capable of being implemented at any point up until 5th October 2024, subject to the discharge of the relevant conditions. The approval of a temporary planning permission to regularise the containers by way of the 11229-N scheme would not hinder the implementation of the approved 'O' scheme, nor this 'P' scheme if it is approved. This is because the Council remain the land owner

and ultimately retain the rights to remove the containers to facilitate construction of a more permanent solution. The LPA therefore considers there to be significant and realistic prospects of 'O' being a practical and likely fallback position. The fallback position is deemed to hold significant material weight in any assessment.

Constraints

20 The site is constrained by several factors:

General (falls within)

- Env. Agency Tidal Flood Zone 3a;
- Designated Green Belt;

Nature Conservation

EU Designation (Nearby)

- Avon Valley SPA, 2,226m NW;
- Dorset Heathlands SPA, 593m SW;
- Solent and Dorset Coast SPA, 15m W
- Avon Valley Ramsar, 2,200m NW
- River Avon SAC, 2,226m NW;
- New Forest SAC, 4,352m NE;
- Dorset Heaths SAC, 593m SW;

National Designation (Nearby)

- Highcliffe to Milford Cliffs SSSI, 1,966m NE
- Christchurch Harbour, SSSI, 14m W

County Designation (Nearby)

- Hengistbury Head Local Nature Reserve (LNR), 411m SW
- Stanpit March LNR, 1,024m NW
- Steamer Point LNR, 1,968m NE

Local Designation (Within)

- Mundeford Spit SNCI Nature Reserve

Public Sector Equalities Duty

21 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

a) 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;

b) In accordance with regulation 9(3) of the Conservation of Habitats and Species Regulations 2017 (as amended) ("the Habitat Regulations), for the purposes of

this application, appropriate regard has been had to the relevant Directives (as defined in the Habitats Regulations) in so far as they may be affected by the determination;

c) For the purposes of s28G Wildlife and Countryside Act 1981, to the extent consistent with the proper exercise of the function of determining this application and that this application is likely to affect the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest is of scientific interest, the duty to take reasonable steps to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest;

d) 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; and

e) The Flood and Water Management Act 2010 places a duty on all flood risk management authorities to co-operate with each other. Lead local flood authorities are required, under section 21 of the Flood and Water Management Act, to maintain a register of structures and features which are likely to have a significant effect on flood risk in their area. The Act requires flood and coastal erosion risk management authorities to aim to contribute towards the achievement of sustainable development when exercising their flood and coastal erosion risk management functions. The Technical advice issued by the SoS requires in 3.1 (DEFRA, PB13640, 2011) to ensure decision making takes “account of the safety and wellbeing of people and the ecosystems upon which they depend”, and “taking action to avoid exposing current and future generations to increasing risk”

Consultations

23 The following statutory parties were consulted on the proposals. Detailed commentaries are given in relevant sections of this report. Summaries are given here:

- a) **Highway Officer:** *No objections subject to conditions;*
- b) **Waste & Recycling Officer:** *No objections subject to conditions;*
- c) **Environmental Health Officer:** *No objections subject to conditions;*
- d) **Flood & Coastal Erosion Risk Team:** *No objections subject to conditions*
- e) **Environment Agency:** *No objections subject to conditions;*
- f) **Ecology Officer:** *No objections subject to conditions;*
- g) **Dorset Wildlife Trust:** *No objections subject to conditions*
- h) **Crime Prevention through Design:** *No objections, subject to CCTV, and security*
- i) **Sustainability Team:** *Site area below threshold for comments; and*
- j) **Heritage officer:** *No objections.*

Representations

24 Four site notices were erected at the café, adjacent to the beach huts, and at Hengistbury Head on 27.04.2022 with a consultation expiry date of 19.05.2022. Revised plans, clarifying the allocation of functions to the floor areas were received by the LPA on 07.10.2022 and placed online. Re-consultation was not undertaken as no additional physical changes were proposed by the updated technical information that would have typically warranted re-consultation.

Responses

25 151 responses received to the initial plans from 147 persons; 96 of whom object to the proposals and 51 who offer support.

26 Summary of objections from 96 addresses
(including several who state they do not to own or occupy a beach hut on the Sandbank):

- The plans shown indicate a low profile compared with previous applications. However, the building is far larger and bulkier than anything seen here in the past. It will overshadow and impose on the recreation space and tranquillity of adjacent huts.
- Enclosure of area store area to rear allows for an extended seating area and increased take-away facilities, and does little to increase the provision of staff/visitor toilet facilities, nor the provision of daily sale items (such as milk, bread, newspapers etc) in the “shop” area;
- 70-80% increase in footprint and formalisation of footprint indicates a level of investment that must assume a greatly increased footfall and profits;
- Amplified music will be played and escape, blighting the days and nights of adjacent beach hut users past 10pm and until midnight;
- Revised BCP Sea Front Strategy of 2022 states Mudeford Sandbank to be a place where there is “*a feeling of seclusion from the pressure of modern life*”. Proposal would intensify use unacceptably.
- Formalisation and increased capability to cater for more guests over longer opening hours would result in increased noise and disturbance, take-away waste, commercial waste, and increased traffic etc - all of which would detrimental to the character of the beach.
- Strategy sets out support for the intention to: “*continue to manage the Sandbank in a sustainable fashion, maintaining its current character and protecting the sensitive natural environment*” yet the proposal would do the opposite.
- Strategy also states “*as a Site of Nature Conservation Interest (SCNI) there is a presumption against further development in planning terms*”. The additional traffic from pedestrians, service vehicles, boats and cyclists would impinge on the setting and biodiversity make-up of the SSSI.
- Increased vehicular traffic along the service track will be inevitable due increased size of café, contrary to policies seeking to reduce traffic and air pollution at this precious site.
- Cars and vehicles should be prohibited from attending the site, other than waste/servicing vehicles.
- Functions of restaurant, ice-cream parlour and small shop are acceptable but should be relocated away from the beach huts;
- The proposal will impact on the amenity enjoyed by the occupants of the beach huts during the day
- The proposal will impact on the amenity enjoyed by the residents of the beach huts into the evening and overnight, disturbing sleep and exacerbating antisocial behaviour
- 10pm is already too late to open, particularly when alcohol is involved.
- No noise assessment has been undertaken. Kitchen is to be relocated closer to some of the beach huts, with extraction units causing blight to beach hut residents;
- Absorbing of the equipment/service space to the rear mean no staff rest facilities, leading to staff congregating outside, leaning against huts to smoke and make noise next to children playing.
- Proposed layout and division of spaces will cause queue congestion and fail to meet the needs of the residents;
- Greater noise and disturbance may result leading to policing problems on The Spit generally, particularly at night;
- Consideration has not been given to health and safety such as reasonable crowd management measures; and

- Overdevelopment of the site will cause problems for the Council and residents, with increased bills for waste management and policing the noise complaints from residents and families on holiday.
- 27 Summary of Support from 51 addresses
(including several who state clearly they are users/owners of beach huts and others who state regular use of the existing Café and frequent year round visits to the Sandbank):
- The project is amazing;
 - Existing buildings were only intended to be temporary, proposals would provide better arrangement of the floorspace in permanent buildings;
 - Proposed design is appealing and in keeping/sympathetic to the local beauty spot;
 - Design and size of the building appears to fit in nicely with the adjacent beach hut structures;
 - Will enhance the facilities offered on the beach;
 - Will reduce the carbon footprint and noise pollution of the site as a whole through use of modern building products and soundproofing;
 - Being enclosed will make it will make quieter for the surrounding hut users/owners too;
 - Removing the rear alleyway and incorporating it into the building will reduce operational noise transferred to beach huts and enhance the aesthetics experienced by hut owners directly behind;
 - Proposal supports needs of beach hut occupants, local businesses, and the needs of year-round visitors. Would suggest that it is kept quite informal (ie flip flop friendly)
- 28 Other comments [officer response given in square brackets]
- The proposal will devalue the price of the beach huts [*not a material consideration*]
 - It is claimed that nearby hut users are in support, but they are not [*some do state 'ownership'*]
 - Unfair on the hut users nearest the application site who will be impacted but pay the same rates and licence fees as other huts; [*impacts are considered, financial impacts not a material consideration*]
 - Previous case was refused [*NB: it was not, it was approved*];
 - HSE rules require a separate toilet facility for staff – [*Not a planning matter*]
 - It is understood that the tenant or a business associate is preparing a floating bar, to be moored off the Sandbank, in close proximity and working in conjunction with the cafe. [*This matter is speculation and not proposed by this application*]
 - Non beach hut residents are 'tired of the beach hut owners lobbying the Council to prevent more public access to the Sandbank as the site should be enjoyed by all' [*noted, not a planning matter*];
 - Beach hut owners 'do not own this slice of paradise, it is everyone's and constant objections delay access for everyone'. [*noted, not a planning matter*].
- 29 The Mudeford Sandbank Beach Hut Association (MSBHA) represent 93% of all beach huts on Mudeford Sandbank. Their liaison officer wrote in to chase the lack of decision on the application and to clarify if this case would be determined via the delegated or committee route.
- Further Comments, post plan update
- 30 Following the receipt of updated plans clarifying the internal layout, 3no. objectors provided further comments raising issue with the applicants claim regarding established/previous floorspace.
- 31 The objectors comment that '*successively over the years attempts have been made to expand the operational area and manner of site use without the required permissions*'.

They also consider that *'the outbuildings to the rear of the site should not be considered part of the previous operational footprint of the café as they were historically used by the Council for storage and the toilet a welfare function for the cleaners on the sandspit'* and that the *'open access between the café and outbuildings was not roofed and served only as an escape route'*. No specific dates are given but the objectors consider the new plan no. PL12 'Like for Like' *"to be misleading as only 254sqm of the 382sqm qualify for inclusion."* Further concerns are expressed as follows:

- 'areas where benches are erected on the beach are not shown or included in the red line, and the bin store would sit outside the site' *[NB, the red line does actually include the bin store];*
- total site area would thus exceed 446sqm and represent a 75% increase over what comprised the site before the fire; and
- Highways comments are based on the incorrect floorspace totals misrepresented on the plans;
- Multiple vehicles service/deliver to the site, not just one delivery vehicle. *[NB, the premises lease already requires the use of one delivery vehicle and sets out a maximum no. of annual trips, with decreasing frequency into the future]*

A Planning Officer response to the issue of what comprises the established use and planning unit is given in paragraphs 15-17 of this report. Also relevant are parts of the committee report for application no. 11229-N which summarise the conclusions of the enforcement investigation.

- 32 This summary was correct as of 06.12.22. Any additional comments received prior to committee will be presented in an addendum report.

Key Issue(s)

- 33 The key issues involved with this proposal are:

- Principle
- Impact on the Green Belt;
- Impacts from Flood Risk Zone 3;
- Impact on the Mudeford Sandbank Spit Nature Reserve and SSSI;
- Impact upon the character of the Mudeford Sandbank Spit;
- Impact on Amenity enjoyed by adjacent beach huts;
- Access & Highways; and
- Waste Management issues;
- Other Environmental and Ecological considerations;

These points will be discussed as well as other material considerations below.

Policy context

- 34 Local documents:

a) Core Strategy (2012)

- CS1: NPPF – Presumption in Favour of Sustainable Development
- CS2: Sustainable Homes and Premises
- CS3: Sustainable Energy and Heat
- CS4: Surface Water Flooding
- CS6: Delivering Sustainable Communities
- CS18: Increasing Opportunities for Cycling and Walking
- CS29: Protecting Tourism and Cultural Facilities
- CS34: Sites of Special Scientific Interest

CS35: Nature and Geological Conservation Interests
CS37: Green Belt
CS38: Minimising Pollution
CS39: Designated Heritage Assets
CS41: Design Quality

b) District Wide Local Plan (2002)

3.20: Contamination
3.28: Flooding
4.25: Trees and Landscaping

c) Supplementary Planning Documents:

Sustainable Urban Drainage Systems (SUDS) - PGN
BCP Parking Standards – SPD

d) Bournemouth Borough Council ‘Seafront Strategy 2007’.

Relevant aims of which are:

1. *Creating a more environmentally sustainable seafront;*
2. *Achieving reinvestment, economic regeneration and a sustainable product;*
3. *Delivering truly memorable customer experiences;*

Other more specific aims are

- *Re-building the Beach House Café’ and*
- *‘Continue to manage the sandbank in a sustainable fashion, maintaining its current character and protecting the sensitive natural environment’*

e) Mudeford Sandbank Management Plan April 2014 – March 2024

35 National Planning Policy Framework (“NPPF” / “Framework”) 2021

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

2. Achieving sustainable development
6. Building a strong, competitive economy
8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making effective use of land
12. Achieving well-designed places
13. Protecting Green Belt land
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

Planning Assessment

Principle

- 36 The principle of a customer serving beach café, restaurant, bar and tuckshop has been established on this site by way of previous historic operation (prior to the fire which destroyed the premises) and since that time through the granting in December 2021 of a planning permission for a replacement facility (Permission 11229-O)
- 37 The previous, more controversial proposals to extend upwards with a new roof (11229-M) were withdrawn and do not form part of this proposal. This proposal seeks to consolidate the replacement structure/compound area approved via 11229-O with

the remaining component outbuildings to the east into a single operational unit with no intervening outdoor spaces, interruptions to external walls or structure heights. The use permitted by permission 11229-O in 2021 has not been implemented. As discussed in the planning history, some functions such as the kitchen and storage have been housed temporarily within 4 shipping containers to the rear (east). Whilst the containers do not yet have planning permission, a retrospective planning application was submitted, but superseded in part by this submission which would necessitate their removal. With regards to this current application for the new build café/restaurant the drawings demonstrate that the consolidated replacement floor areas offer a near identical footprint for the combined café/restaurant and the storage buildings and intervening service walkway between them as previously approved in 2021.

- 38 The proposed café is a main town centre use, and in line with national and local policy CS7 such a use should normally be directed towards town centres first. If the proposal were not replacing an existing facility, a retail sequential test would normally be required where an increased retail footprint is proposed (compared to the original). Taking into account this a replacement use for an existing facility and given the sites unique segregated location away from any town centre it will not have any discernible impact upon the vitality or viability of those centres. Although the space is to be assigned to take away and sit down café functions, plans indicate a net reduction in total floor space for the whole enterprise. The proposed use is intended to support tourism in this particular area rather than drawing trade away from the town centres. Notwithstanding the sequential test, it is fairly obvious that there are no alternative sites within a town centre which would suitably provide for this seaside tourist refreshment and food facility on the isolated Sandbank. Total floorspace falls well below 2,500sqm meaning an impact assessment would not be required. Policy CS7 aims are not compromised.
- 39 With regard for Core Strategy Policy CS29, the principle of replacing the facility with a versatile, accessible and practical structure is supported as it would assist in both enhancing the tourism aspects offered to visitors and assist in safeguarding a social and cultural facility in this specific location.

Impact on the Green Belt

- 40 The site falls within the designated Green Belt. Para 159 of the NPPF states that the construction of all new buildings in the green belt are 'inappropriate development'. Paragraph 147 sets out *"that 'inappropriate development' is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances."*
- 41 However, Para 149 then sets out some exceptions to this: *"...a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:*
...d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces; ...
...g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
– not have a greater impact on the openness of the Green Belt than the existing development;
 Criterion (a), (b), (c), (e), and (f) are not considered relevant.
- 42 The proposal seeks the replacement of the fire damaged buildings removed from the site that previously occupied / operated from the site for approximately 60 years. Although the lawful use of the site is not in question, the previous building was removed and the replacement building permitted by 11229-O in 2021 has not yet

been implemented on site – meaning criterion (d) cannot apply. With regard for the fact that the proposal seeks the general consolidation of the structures on site into a single connected/covered building, criteria (g) remains as the only appropriate factor against which to assess.

- 43 The proposal seeks the complete redevelopment of the café site, including the removal of the outbuildings and the formation of a more cohesive building that would consolidate the fragmented functions of the commercial operations previously consented and having significant history of operation on site, into a single covered building. In this respect, the development can be quantified as eligible of being assessed against the first part of criteria (g).
- 44 The central part of criterion (g) excludes any temporary structures that exist on site from being eligible for inclusion within the definition of ‘previously developed land’ (PDL). The 4no. shipping containers that currently exist on site are largely irrelevant to the consideration of this 11229-P application. However, during the enforcement investigation that triggered the retrospective and concurrent 11229-N submission, it has been established that the lawful use of the site and the identifiable planning unit includes the parking area, the outbuildings and the gated alleyway as summarised in paragraphs 15-17. The alleyway is so narrow and was used with sufficient frequency and intensity for access, servicing and storage between the two facing units so as to comprise, not just curtilage, but also formal storage space for the waste bins, gas cylinders and was gated.
- 45 Whilst the almost enclosed alleyway land can be reasonably considered to comprise Previously Developed Land, the staff parking area cannot, as it remains an area less intensively used than the service alley, with no projecting structures or enclosure, regular storage or other functions other than the parking of vehicles. No development is proposed by this application on the car parking area, other than the continued use as staff/delivery parking. Thus, the application of NPPF criterion 149 (g) remains appropriate to the assessment of the new café and restaurant facility proposed by 11229-P.
- 46 This proposal seeks to remove the existing structures associated with the café, and this includes those adjacent to the café compound (comprising the timber outbuilding, electricity substation, and shed adjacent to the tank area) and provide replacement component floorspace in those areas in an enlarged building. With reference to paragraphs 1-6 and the list of public objections, the café/restaurant is not getting bigger but is in fact rationalising by deleting and replacing redundant structures with a new building that encompasses the outbuildings and the gated operational alley area. In respect of the 25% portion of the outbuilding mentioned in para 16, please see paragraph 49 below. As such, criterion 149(g) of the NPPF is wholly relevant and its acceptability relies on the replacement structures not having “a *greater impact on the openness of the Green Belt than the existing development*”. As is set out in the conclusions of the character and appearance assessments elsewhere in this report, the result of the proposal is that it would remove a clutter of unsightly dilapidated buildings from the rear of the café and replace them with built form of a scale and appearance more complementary and sensitive to the location. The parts of the building that would form this ‘extension’ over the extant operational alleyway, and the outbuildings, would largely be screened from view from the wider Green Belt by the beach huts and have no material impact at all the ‘openness’ of the Sandbank; the Spit; or Christchurch Harbour. If granted and to enable this permission to be enacted, and to avoid any confusion on the matter, a condition requiring the removal of the shipping containers that remain on the site should also be included on any approval.
- 47 This is not the first time the LPA has considered whether the use of the outbuildings and alleyway comprise part of the functional café use and operational area. Discussions regarding this were captured in officer exchanges with the applicant

during the lifetime of the subsequently withdrawn 11229-M proposal in 2020. The LPA discussed the issue of whether that proposed footprint comprised an 'expanded' or lawful footprint in the Green Belt with the operator's agent and reached similar conclusions to the ones expressed in the above paragraphs.

- 48 As such, the proposal is considered 'appropriate development within the Green Belt' in accordance with Core Strategy Policy CS37 and in respect of criteria 149(g) of the NPPF and no consideration of any special circumstances is necessary.

Change of Use

- 49 In response to objector comments who consider the use to have intensified unlawfully, the small portion (25%) of the wooden outbuilding store not leased to the occupant in 2015 amounted to a floor area of 13.5sqm, with the remaining 41.5sqm in ancillary use to the café. Of the 130sqm made up of the rear alleyway, outbuildings and store shed, the 13.5sqm floorspace comprises 10% of the total space. If the original main restaurant building (254sqm) were added to the 130sqm (total 384sqm), then 13.5sqm comprised just 3.5% of the built form on the site. Comparing the proposed 411sqm built footprint against the historic pre-fire built footprint of 431sqm, and the extent of the area considered to lawfully comprise the application site (519sqm). The replacement buildings comprise only 95% of the historic footprint, meaning the 13.5sqm (3.5%) is not being absorbed into the development and the respective floor areas are not increasing in size.
- 50 The burnt down building, benefitted from a quantum of external deck and ramping and physical extension comprising the shop. The decking has been deleted and this proposal would delete the shed that housed the former shop on the south side. Although the 13.5sqm portion of the outbuilding/site is technically changing use, it is being offset by the removal and non-replacement of the shop/ramp and decking that previously projected outwards from the southern elevation. The substitution of the built form/area would represent a reduction in total built area and because of the offset is considered to raise no material harm to neighbouring beach hut users, particularly in respect of the conclusions of paragraphs 84-87 later in this report.

Flood Risk

Tidal Flooding:

- 51 The site sits wholly within Flood Risk Zone 3a, where the highest risk to life from flood exists. The main sources of flooding are both fluvial from the River Stour; and tidal flooding from Christchurch Estuary and Christchurch Bay. In this location new development for 'Highly Vulnerable' and 'More Vulnerable' end uses would be required to undertake a sequential test. The proposed café restaurant would remain classified as a 'Less Vulnerable' use and not require the submission of a (Flood Risk) Sequential Test (ST) to determine alternative sites. The LLFA did not previously request an ST on 11229-O. Notwithstanding the inclusion of the outbuildings and enclosure of the alleyway space and electrical sub-station to the rear in this application, the LLFA have not requested an ST in this instance. Paragraph 27 of the NPPG (Flood Risk) identifies that where a ST is needed for an application *"....a pragmatic approach needs to be taken where proposals involve comparatively small extensions to existing premises (relative to their existing size), where it may be impractical to accommodate the additional space in an alternative location."* Whilst this does not exactly fit this situation the principle of the scenario can be argued to reasonably apply equally to this situation where a lawful use is being replaced with a similar (smaller) sized building. Subject to conditions, the Environment Agency and Council Flood & Coastal Erosion Risk Team raise no objections. It is therefore considered that this proposal would be no worse in flood risk terms than the fall-back position comprising the approved 11229-O, and so the last part of Para 29 of the

NPPG (Flood Risk) would apply, whereby: *“Ultimately the local planning authority needs to be satisfied in all cases that the proposed development would be safe throughout its lifetime and not lead to increased flood risk elsewhere.”*. Similarly, the aims of Bournemouth DWLP (Legacy) Policy 3.28 would not be compromised.

52 With regard for para 164 of the NPPF, having concluded that a Sequential Test is not needed, the necessity of an Exception Test (ET) must be considered. The site falls within Zone 3(a) and comprises a ‘Less Vulnerable’ development, meaning that an ET is not required. In this exposed location, the main risk to life related to the Flood Risk Zone would be from a surge flood or high winds carrying stones and flotsam, preventing staff and customer escape. Sufficient exits are proposed to satisfy Building Regulations (Fire Regulations) and as the building comprises a replacement commercial café with no living or sleeping accommodation, and no first floor, no alternative means of rooftop escape are proposed.

53 NPPF Paragraph 167 sets various tests relevant to at flood risk development and states that *“when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment (FRA).”*. An FRA has been submitted. Paragraph 167 continues: *“Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*

- a) *within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
- b) *the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;*
- c) *it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- d) *any residual risk can be safely managed; and*
- e) *safe access and escape routes are included where appropriate, as part of an agreed emergency plan*

In response to these elements.

- a. the use comprises a ‘Less Vulnerable’ defined use, with no sleeping or residential functions. No elements of the use are more vulnerable than others, but lone working and premises opening should follow the advice issued by the Environment Agency weather warning service;
- b. the FRA sets out mitigations to be incorporated into the build that would enable utilities and the fabric of the building to be protected and the use recommence with minimal refurbishment;
- c. sufficient indicative information is currently supplied but conditions are proposed to govern this element properly;
- d. the FRA sets out that residual risk can be safely managed; and
- e. The Environment Agency advises an escape plan but does not require it be conditioned, so an informative is proposed for attachment to the decision notice.

54 Technically the highest predicted lunar tide is 1.99m here (some 0.4m higher than a 1.5m high example observed by the Flood Team in 2014). Access via Hengistbury head would be reliant upon specialist 4x4 vehicles. As lunar high tides are anticipated and because winds and surge floods in this location are only likely to occur with sufficient time to issue warnings the risk to life to staff and patrons of the café is lower than that of premises used for sleeping. Utilities, wiring and plumbing will need to follow the advice of the applicant’s own FRA and incorporate high level outlets, emergency cut-offs, earthing and non-return valves. Overnight sleeping is not permitted by way of the café Use class so there is unlikely to be any need for high level escape options to be designed into the building. It is recommended that a condition requires the implementation of the FRA mitigations on site and that these also require the operator to subscribe to the Environment Agency early warning Weather and Tide alert system

and also consider displaying live weather warnings/flood risk on a television screen within a busy public area whenever customers are present on site or staff are working on site.

Floodwater Displacement:

- 55 The building largely reuses the footprint of the existing building and collection of outbuildings, Whilst the rear service area between the storage and kitchen areas will be enclosed the area is typically stacked with cages and crates related to the cafe. The Environment Agency have not raised a concern with regard to floodwater displacement caused by this small area of infill, and it is considered that the enclosure of this space with permanent walls, rather than wooden gates will reduce the amount of jetsam able to float away during a flood. The Environment Agency advise that conditions to secure the finished floor levels and other mitigations set out in the FRA need to be attached to ensure compliance with the NPPF's requirements relative to Flood Risk. The LPA agrees with the application of these conditions.

Drainage / Waste Water:

- 56 Policies 3.28 and the later CS4 typically require the submission of a Sustainable Drainage System (SUDS) capable of ensuring that the level of surface water leaving the site is no greater than that prior to the development, and the quality of local water. Paragraph 167 of the NPPF makes a similar requirement. The land is previously developed with an internal waste drainage system connected to the main sewer. Rainwater from roofs and surfaces drains into the sand as it previously did. The Flood Risk Assessment sets out a possible approach via condition that could be taken to resolve rainwater drainage issues - to which the Drainage Team and LLFA have raised no objections. A condition would therefore be needed on any approval to require a drainage and wastewater strategy to be submitted, approved and implemented in accordance with national and local guidance and policies. The condition will also need to ensure waste water and toilets continue to discharge to the existing mains sewer, and rainwater into the adjacent ground. Non return valves should be fitted to all plumbing wastes in accordance with the FRA. Subject to suitable conditions to require the submission, approval and implementation of these details, the NPPF and local Policies 3.28 and CS4 would be satisfied.

Impact on character and appearance of the Mudeford Sandbank Spit Site of Nature Conservation Interest and SSSI.

- 57 Government Circular 06/2005 states that *"it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted."* Without knowledge of whether or not protected species are present, the LPA would not be able to comply with NPPF 2021 paragraph 174. *"Planning policies and decisions should contribute to and enhance the natural and local environment by: d) by minimising impacts on biodiversity and providing net gains in biodiversity where possible"*. Additionally, in determining this application the council has to bear in mind that under Section 40 Natural Environment and Rural Communities Act 2006 (NERC) *"Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity"*. The LPA continues to have a statutory duty under the Habitat Regulations 2017 regarding protected European Species.
- 58 The site is located within a designated SSSI and Nature reserve. It comprises built form on the sandbank, occupying space used and operated as a café/restaurant for over 60 years. No encroachment is proposed into the harbour or across the beach

outside the extant footprint area. The application site lies within the Site of Nature Conservation Interest (SNCI); SZ19/031 Mudeford Spit, cited for its sand dunes and gravel with shingle foreshore. SNCIs are identified and selected for their local nature conservation value, acting as buffers, stepping-stones and ecological corridors for species between nationally and internationally designated wildlife sites. SNCIs often contain priority habitats and species listed under Section 41 of the *Natural Environment & Rural Communities (NERC) Act 2006*.

- 59 The Dorset Wildlife Trust (DWT) and BCP Ecology officer have assessed the proposal and consider that the ecological report submitted in support of the application includes full assessment of the impacts of the proposal and in subject to conditions adequately addresses the points of concern. DWT consider it unlikely that the development will have any adverse impacts upon the SNCI, SPA, SCA or Ramsar areas. However, they do state that it would be desirable for precautionary measures to be secured through production of a Construction Method Statement (CMS). This should detail measures and working methods to ensure that any potential negative impacts during the construction phase are avoided. This should include access for vehicles and working footprint, storage of materials and hazardous substances, control of dust and liquid run-off and noise and lighting control measures to avoid temporary impacts on wildlife during construction. DWT also note the presence of Russian Vine (*Fallopia baldschuanica*) recorded on and immediately adjacent to the application site. It is essential that this non-native invasive species is removed and that measures to prevent accidental spread are included within the CMS. The CMS should make provision for ongoing monitoring with any regrowth controlled as soon as possible.
- 60 The Council's Ecology officer comments that while there is no ideal foraging habitat on site, bats do still forage around buildings and published research shows the use of the adjacent beach and dunes habitat by bats. The bird and bat boxes proposed as biodiversity enhancements are welcomed. The Officer agrees that external lighting will need to be controlled by condition to prevent position on, and direction or spill towards the beach or beach huts to prevent impact on bats. Although the Ecology report says 4no. species of bat have been recorded locally, research at Black House, 266m to the north recorded at least 8no. species of bat. The Ecology officer expresses a concern that no internal lighting information accompanies the proposal, but overnight operations not proposed and conditions can prevent night-long illuminations.
- 61 The BCP Ecology Officer notes that "in the planting proposals in section 5.6.5 of ecological appraisal report it mentions use of *Jacobaea maritima* (Silver Ragwort), that is to be deleted from the proposed planting list as elsewhere along coast in BCP this plant is spreading and damaging SNCIs." The planting list has not been amended. Marram grass is proposed as a species within the planting plan. While the Ecology Officer supports the use of Marram grass they do point out that for this species to thrive requires mobile sand dunes, which are not present on the spit and will most likely die out and be replaced by other species on the list. In order to better address these two points in the event of approval, the application of a landscaping condition is suggested to require the submission of specific planting schedules and appropriate species.
- 62 Due to location of site and need to protect the Mudeford Spit SNCI, Christchurch Harbour SSSI and Solent and Dorset Coast SPA, the BCP Ecology Officer requests that the CEMP requested by the DWT be upgraded to include Demolition (D&CEMP) as a prerequisite before commencement.
- 63 In terms of both visual amenity of this extremely sensitive and perhaps unique environment that is Mudeford Spit, the new building for the existing uses will have no greater, or adverse impact upon the wider SSSI or Nature Reserve designations.

Subject to the conditions set out above the development will satisfy the aims of local policies CS1, CS6, CS30, CS34, CS35; CS41, the Seafront Strategy 2007, the MSMP and also comply with the NPPF by contributing to, and enhancing, the natural and local environment by minimising impacts on, and providing net gains for biodiversity.

Impact on character and appearance of the Mudeford Sandbank Management Plan Area.

- 64 The Mudeford Sandbank Management Plan [MSMP] (April 2014 – March 2024) (produced by the former East Dorset and Christchurch joint Council), remains relevant and sets out various objectives pertinent to development on and around the Mudeford Spit/Sandbank. Key objectives include the need to: *“...identify priority areas to defend and improve the quality of Mudeford Sandbank...
(B) To maintain the peaceful and tranquil character of Mudeford Sandbank;
(D) To provide and maintain basic modern amenities in an environmentally sensitive way that do not impinge upon the character of the Sandbank;
(F) To balance the needs of various uses...to ensure the site is sustainably managed and enjoyable for all;*
- 65 With regards to objector concerns that the proposal will result in an intensification of a use, the location remains sufficiently remote that trade is reliant upon passing trade and largely related to the wider tourist activities associated with the beach, the huts, sailing, water sports, walking and cycling. No access is possible by private car and the only fast way onto the spit and sandbank remains via the Ferry (roughly every 20 minutes during the day) or by push bike. The options to arrive and depart are limited and there is unlikely to be an influx from any one aspect resulting from the proposals.
- 66 The proposals seek to rationalise the function and flow of customers through the facilities, with snack and takeaway queues separate to areas dedicated to sit-down dining covers. The internal spaces would also allow for food storage and prep areas to be brought under one roof, minimising the risks of contamination and limiting the disruption inclement weather may have on functionality. The floorplans have been annotated to depict how the areas are to be allocated and for what purpose. There is not considered to be an increase in operational floorspace beyond what lawfully exists on site. Similarly, the external tables and seats will only likely be used during the dryer, longer daylight months. It would reflect a formalisation of the facilities previously approved and permitted at the site under various licensing applications during and since the switch to outdoor serving necessitated by the Covid 19 permitting regime.
- 67 The proposed replacement and upgrade of the Beach House Café approved by permission 11229-O generally accorded with the objectives set out in the Sandbank management plan. The current proposal is considered to comprise a better arrangement of refreshment, eating and toilet/bathroom facilities than the scheme granted permission in 2021 and thus also considered to satisfy the aims (D) and (F) of the plan. The floorspace dedicated to sit down covers is not increasing in any significant way and the proposed rationalisation of the space is unlikely to lead to any intensification of use that substantially alter the existing tranquil character of the Sandbank, satisfying aim (B) of the management plan. The geography of the location, and parking/vehicular/access restrictions already discourage mass-access to the Spit. These are sufficient to discourage any a significant increase in footfall to the café / restaurant above and beyond that already associated with the tourist draw of the Sandbank. The refreshments and food offered are beneficial to visitors and Beach Hut users of the Sandbank, without being a destination draw factor in their own right. To accord with the MSMP, the new toilet facilities would need to be delivered in an

environmentally sensitive way to prevent chemical discharge onto the sandspit. A condition will need to address this aspect (see 'Drainage' in this report).

- 68 The proposal would generally satisfy the aims of the MSMP and the retention of the cafe in this prime visitor location would also accord with Policy CS29 which aims to protect and retain tourism and cultural facilities.

Impact on the character and appearance of the Immediate Surroundings.

- 69 Core Strategy Policy CS6 requires good design principles for new buildings, regard for how spaces are treated, and enhancement of features that contribute to an area's character and local distinctiveness. Policy CS41 requires good design and for proposals to enhance the quality of the local environs.
- 70 **Setting:** Mudeford Sandbank sits in exceptional coastal surroundings, with an outstanding open setting for characterful beach huts in a variety of designs and colours, which make up most of the buildings in the area. The Mudeford Quay conservation area includes a small part of the sandbank on the Bournemouth side of the water. Looking on site at the spacing to the conservation area (includes the Black House) from the application site (over 260m away) and bearing in mind the low scale development proposed, the Heritage Team have raised no concerns in respect of potential impact on the designated Heritage asset of the Conservation Area.
- 71 **Height & Built Form:** The proposed form of the building is to replicate the existing beach huts, bringing several beach hut forms together to form one block. Each beach hut style element would be a little taller and wider than the existing beach huts, however this is a public facing building so a slightly greater scale would be appropriate in urban design terms. It is acknowledged that the height of the ridges on the building will rise marginally compared to what was recently approved: by approximately 0.5m compared with the fire destroyed structure, and 0.3m higher than the unbuilt replacement approved by 11229-O. This is largely down to the building needing to be constructed on a solid foundation, unlike the 60 year-old building which was built under different Regulations.
- 72 **Footprint & Layout:** In built form terms the structure would be bigger than the fire destroyed original (which occupied about two thirds of the site) as it would enclose the service alley and the range of outbuildings, open air storage and service parking (that took up the other third of the site). The absorption of the service alley and outbuildings to the rear would allow for a more coherent approach to the way the interior is laid out and utilised. Distinct areas for take-away queuing/sales, and self-service/sit down covers will be created. Space for storage, food prep, and customer toilets will also be provided under one roof, reducing the need for repeated daily access to the storage buildings to the rear.
- 73 **Legibility and Wayfinding:** Movement through the building would be improved through the removal of flow conflicts caused by a more cramped layout. The previous decked balcony structure had become more and more enclosed over the years and was thus a relatively comfortable and weatherproof space, used year-round comparable with the decked retractable roof area proposed to the frontage. Generally, the proposed layout is logical and it is positive that the proposal would simplify the clutter of outbuildings associated with the previous café. The entrance doors would be clearly visible and easy to find which would help with wayfinding.
- 74 **Appearance, Materials & Detailing:** The proposed materials are silvered horizontal fibre cement cladding board for the walls and corrugated fibre cement sheets with a light grey tone for the roof. The western and southern sides would be likely to have a positive appearance subject to the use of high-quality materials. The east and north sides are plainer as they have been designed without windows, to address privacy

concerns of hut users. Securing robust and high-quality materials suitable to this marine environment is essential to securing the delivery of the external appearance, particularly with regard to NPPF paragraph 135 which advocates that the quality of approved development should not materially diminish between permission and completion as a result of changes to materials.

- 75 The Urban Design team have requested details of manufacturers and named products. It is understood that fibre cement is proposed on fire safety grounds, but a condition requiring samples and details prior to installation should be attached to any permission to allow a consideration of how the eventual product selected for walls and roof will weather over time adjacent to the sea. With sufficiently worded conditions it is possible to ensure high quality materials are secured prior to their installation across the building.
- 76 **Conclusion:** The site has hosted to a café building for many years, and the building destroyed by fire had evolved in an informal way absorbing outbuildings and enclosing the cluttered outdoor alleyway which did not result in an appearance befitting the special surroundings. The LPA have been clear throughout that the site presents distinct opportunities to create a building that responds better to the character of its surroundings with improved design and appearance. The design of the structure, including the roofs would satisfy the aims of NPPF paragraph 134 (a) and (b) by emulating the appearance of the adjacent beach huts, but with subtle increases in proportions appropriate to a public serving building, drawing reasonable attention to itself, but in a more discreet manner.
- 77 For these reasons, the proposal would sufficiently accord with design and streetscene elements of Core Strategy Policies CS6, CS39 and CS41 and the aims of the MSMP. Subject to conditions regarding materials, the design of the proposal comprises a significantly better solution than a repetition of the building lost to the fire would have offered.

Impact on the character and appearance of the Neighbouring Beach Hut Amenity

- 78 **Noise & Odour:** As discussed, the Beach House Café has existed here for at least 60 years, and has operated during that time largely within the limits of the various (renewed and monitored) Licences, which imposes its own hours of operation and other restrictions. The most recent permission, for a more lightweight, open-sided and partially unroofed structure was granted in December 2021, permitting hours of use from 10.00 until 23.00 daily. This proposal seeks to extend those hours to between 08.00 and 00.00 daily.
- 79 With regards the potential impact upon neighbouring beach hut occupants, a Noise Impact Assessment (NIA) was submitted to the EHO in respect of the previous scheme. The EHO team was satisfied with findings of that NIA and the recommended measures, particularly as BCP already has a Licence in place, with all its own associated Conditions of operation, hours, etc. The Licences have been in place for many years and have been used to enforce hours and other issues, such as outside noise over this period, helping to curtail and resolve issues accordingly.
- 80 The NIA set out provisions for:
- noise suppression systems for the kitchen extraction systems/pipework;
 - the repositioning of the front door orientation; and
 - a sound limiter set at 90dB;
- These elements were secured by a condition on the 11229-O permission that also required:
- Amplified music or Live Bands to cease at 23:00, with all doors and windows to be closed during live or amplified music performances.

- The construction design, including the roof, walls, glazing and doors details, to be implemented in full within the premises in accordance with the details of the report prior to the commencement of the use hereby permitted.
All measures were to be retained and maintained in perpetuity.
- 81 It is considered that as the proposed structure is to be more permanently enclosed than the previously approved iteration, particularly to the rear of the site nearest the huts the impacts of noise will be diminished through more permanent walls and roofing. A condition can again place controls on the extract equipment and sound limiter to be installed. With reference to the interface distances from outer walls of the existing lawful and/or approved structures, the proposals do not encroach any closer to the existing beach huts that sit adjacent and to the rear of the site. Noise and activity associated with the existing rear service path between outbuildings and the compound would be removed with all such activity moved to the building interior. Only occasional maintenance activity would occur at the sub-station, which would retain external access.
- 82 **Opening Hours:** It is proposed to formalise the opening hours to 8am (08.00 hours) opening and closure at 12am (00.00 hours). In considering the impacts there are two strands; i) impact on the biodiversity/ habitat of the adjacent protected areas and the flora and fauna they host; and ii) impact on the amenity enjoyed by occupants of the beach huts during these periods. These are considered in the following sections:

Impact on the biodiversity/ habitat of the adjacent protected areas:

- 83 At present the method of access/departure for patrons and staff are as follows. The Ferry only runs between 10.00 and 16.00 daily, and only between April and October. The land train via Hengistbury Head runs 10.00 to 17.00 daily during high season in good weather. It does not run during winter. The applicant has set out that discussions are to take place with the ferry operator to secure later running should there be sufficient demand from patrons but this does not form part of the mitigation package proposed by this application. The lengthening of opening hours would present patrons and staff with some difficulties regards how to arrive/depart safely and easily given the restricted travel options available here. There is a risk that opening later will create a need to provide more frequent transport services or better jetty lighting into the evening which would risk harming the “...*peaceful and tranquil character of Mudeford Sandbank*” (MSMP) and the fauna/species within the harbout/SSSI/SNCI during what is typically a quieter/darker period of the day. The LPA must be mindful of the historic arrangement whereby the premises were not controlled by hours of opening conditions. Activity which puts the tranquillity at risk is generally resisted by the Mudeford Sands Management Plan.

Impact on the amenity enjoyed by occupants of the beach huts:

- 84 This report does not seek to establish or redefine the use class of the beach huts that surround the café, but they are not generally considered to comprise Class C3 dwellinghouses for permanent habitation. Furthermore, the location of the Sandbank within Flood Risk Zone 3, where risk to life is high not just from predicted high tides but intermittent storm surges would preclude the placement of any new structures where overnight sleeping is permitted. Whilst Council owned huts preclude overnight stays in their lease, a number of privately owned huts are known to be occupied overnight. So, leaving aside the question of whether, how many of, or how frequently the huts are occupied overnight, it is accepted that a occupiers into the evening period can reasonably expect their ‘neighbouring amenity’ to be considered. The previous application considered that 23.00 was late enough and applied conditions to enable regulation of this.

- 85 However, the historic café use of the land is not regulated by planning conditions and the matter has previously been regulated by the issuing of licences by different sections of the Council. The approval of a new building via 11229-O set in place conditions on noise and odour, as well as limiting the hours of opening. As detailed earlier, although that permission has not formally commenced, it remains a realistic prospect. However, this revised proposal offers the opportunity to apply conditions to the rear part of the site, that were excluded from the red line on the previous 11229-O approval. This would offer a more coherent set of controls with regards to noise, odour and activity in the rear portions of the site, nearest the beach huts and represents a significant benefit to adjacent occupiers over the fallback position were the 11229-O scheme to be implemented.
- 86 As the previous approval has yet to be implemented, the site technically operates lawfully without any hours of use but, since the fire, the café has been operating from unauthorised shipping containers that do not benefit from planning permission. Regardless, the licenced hours do not mean that the LPA is obliged to approve the proposal to extend the hours to match. For the clear reasons given above, and in the interests of balancing the needs of the business, tourists, beach hut occupiers and safeguarding local wildlife and habitats the LPA does not support the lengthening of the opening hours outside those already approved. It is considered that closure at 23.00 hours remains an acceptable balance between business viability, beach hut occupier amenity and the need to safeguard the natural environment and special tranquil character that exists on and around the sandbank outside these times. Conversely, the café has historically served a breakfast trade from 8am and restricting the opening hours as from 10am would remove this part of the existing commerce from the site. It would be unreasonable for the LPA to prohibit earlier opening at the suggested hours, particularly as the cooking and seating areas will be sealed and the kitchens adequately vented. The replacement building has been designed to maximise noise containment (whilst still incorporating the retractable roof present for many years on the site) but proposes no additional mitigations to offset any noise or disturbance that may emanate from guest arrival/departure at the location. This is set against the historic context of the premises having no planning-condition-controlled hours of opening. A reasonable balance must be taken to have due regard for paragraph 187 of the NPPF which requires mitigations only in specific situations. Depending on the outcome/implementation of this application, and/or the implementation of the earlier 11229-O approval, permitting opening until 23.00 would still be lesser than the current licence which permits until 00.00 hours daily. A restriction permitting opening from 08.00 but requiring the retractable roof to be kept closed until 10.00 hours daily will diminish the impacts of customer noise during this period and offer an improvement on the existing unconditioned arrangement. Any issues associated with crowd management, crime and disorder, or anti-social behaviour stemming from attending/departing guests would be considered under the Licensing Act, and/or policing legislation.
- 87 With conditions to address extraction, live and amplified music, and hours of opening, there would be no additional detriment to neighbouring beach hut users in terms of noise or odours beyond the impacts previously considered acceptable. The enclosure of the rear of the site within built form would offer additional benefit that would also accord with the MSMP objectives that was not previously part of the approved 11229-O approval.
- 88 **Overlooking, Privacy & Surveillance:** This is a sensitive site in terms of the surrounding beach hut users, and it is understood that windows are avoided on the north and east elevations to aid privacy for the beach huts. Ground floor overlooking is however beneficial for security, not only for the beach café but for the beach huts as well. The applicant has considered the potential for high level windows to give the feel of natural surveillance without providing clear views but opted not to realise these on plan. There are no privacy issues stemming from the new building. The Police

Crime prevention through Design Officer comments that CCTV and lighting should be used to discourage crime but the planning system cannot force the provision of these aspects, which are for the operators of the premises to consider. Lighting has potential to conflict with biodiversity habitats and is addressed elsewhere in this report.

- 89 **Local Shop:** Objections include reference to the fact that the community shop is not enhanced by this proposal. The requirement to provide a community shop for people who stay in the Beach Huts is a separate requirement of the licence to operate the café. The community 'shop' function is currently hosted within the coffee and ice-cream sales office opposite the café. The proposal is to dedicate 15.5sqm of space within the main building to replace the 16sqm lost to the fire.
- 90 **Loss of space in outbuilding:** The 'loss' of the 13.5sqm space within the wooden outbuilding previously used by the Council for workshop/storage uses is not proposed by this application, and happened previously. The sui-generis use appears to have ceased some time after 2015 and before 2018. Following its demolition, no new space would be provided. Whilst the proposals lack a comparable replacement space, the function and need for any replacement 13.5sqm space has not been expressed by the Council (being the landlord) and its deletion from the site is not considered to have any significant impacts sufficient to outweigh the benefits of the proposal.
- 91 Subject to an hours of use condition as set out above, the proposal would respect the amenities of neighbouring beach hut users and the needs of local biodiversity as required by policies CS30 and CS41 of the Adopted Core Strategy.

Highway Safety, Capacity & Flow

- 92 Core Strategy Policy CS6 seeks to deliver sustainable communities. Policy CS16 sets out parking standards, as amended by the recently approved BCP Parking Standards SPD (Jan 2021). Policy CS17 encourages greener vehicle technologies and Policy CS18 advocates support for development that increases opportunities for cycling and walking. In Jan 2021 the LPA adopted the BCP Parking Standards SPD (Parking SPD) which reflect paragraph 105 of the NPPF. It is against this guidance that the proposal has been assessed.
- 93 **Access:** Access to the site can be obtained via public ferries (during the season), land-train and cycle but is predominantly by foot. There is no motorised vehicle access for the general public, who are able to park vehicles at the Hengistbury Head Car Park. From there, pedestrian and cycle access is possible via an unadopted road (not maintained as a public highway). Visitors must be provided access by the Wardens office and a passcode – secure gate, at the Visitor Centre and Café located approximately a mile to the west of Hengistbury Head. The only people having vehicular access are Beach Hut users, wanting to visit or take goods to/from their respective huts, the café operator and Council vehicles, including refuse and delivery vehicles have access. The single width road ends 300 – 400 metres south of the Café, where it becomes an un-metalled – sand/shingle surface. Essentially there is no Public vehicular access.
- 94 **Quantum of Use:** Although the proposal seeks a replacement Café on the same footprint as the 1960s operation, there were concerns that the increase in covered floorspace could give rise to an increase in covers within the Café, with consequences for patron numbers and draw-factor for the facility. However, plans have been annotated to show the comparison of floor areas with historic and previously approved layouts, demonstrating that increases are marginal and mostly benefit internal flow and layout rather than increases in the quantum of space dedicated for sit-down covers.

- 95 Aside from deliveries, only sustainable modes of transport such as walking, cycling, horse riding, sailing, will continue to provide access to/from the Café. The regular 'Public' ferry will also continue to operate to/from Mudeford Quay, to the jetty directly outside the Christchurch harbour side of the Spit and the Land Train run from Hengistbury Head. The development is therefore not considered to adversely affect the 'highway' in such an isolated location, where there is no actual public vehicular access, and as such would be in accordance with Policy CS18.
- 96 **Cycle Parking:** Table 17 – Class E: Restaurant and Cafes of the BCP Parking Standards SPD (2021) indicates that the new café requires cycle parking at a ratio of 1.5 spaces/100m². The proposed 383m² of Gross Internal Floorspace (GIF) generates a parking demand of 7 cycle spaces. The proposal has been amended to deliver 8no. spaces in a safely overlooked and convenient location near the entrance. Given the lack of direct vehicle access to the site, the applicant has been asked to consider increasing the cycle parking provision to promote cycling as a favoured mode of transport to the site. However, as this would need to be balanced against the risk of providing too much, which could obstruct pedestrian movement around the building exterior, the matter has not been taken any further. The two-tier parking has been substituted for standard Sheffield u stands more appropriate to the location. Conditions should require all cycle parking stands to comprise coated or stainless-steel cycle equipment to limit impacts of sea air corrosion.
- 97 **Car Parking:** There are no changes proposed to the parking provision or layout of the two existing 'staff' parking spaces at the replacement café. Given that vehicle access to the site for the general public is not permitted this proposal is not considered to result in displaced parking. Furthermore, there is a significant amount parking available for public use (including for disabled users), both on-street and within a large car park, upon and adjacent to 'Broadway', the nearest section of local highway network. The use of that provision is appropriate for visitors to the application site.
- 98 **Servicing:** The Highways Officer requests that a Servicing Plan is submitted as part of the Waste Management submission in order to understand and control the likely arrangements for and frequency of deliveries to the site of produce and maintenance of equipment. Vehicular access is restricted and subject to such a condition the impacts of delivery vehicles on pedestrians and cyclists using the Hengistbury route to/from the Sandbank.
- 99 **Waste:** Sufficient space exists to provide harbour for the required bins in the sizes and capacities set by the WCA in the location shown. The new bin store will require the removal of the existing BCP shed to the rear of the community coffee shop and the proposed refuse store would sit alongside the existing Eurobins enclosure serving other functions on the Sandbank. The Waste & Recycling Officer is satisfied with the space allocated for waste storage, subject to the submission, approval and instatement of the aforementioned Waste Management Plan prior to first occupation, will provide adequate controls. The Highways Officer is satisfied that the bin storage arrangements will sit close to the existing compound as it affords easy access to the unsurfaced carriageway. Combined collections would be possible if the same waste collection company is selected by the café operator.
- 100 Subject to the conditions to address points and secure delivery of cycle parking, delivery space and a waste management plan, the proposal would satisfy the highway user safety and sustainable development aims of Core Strategy Policies CS6, CS16, CS18 and the aims of the BCP Parking Standards SPD (Jan 2021).

Climate Change Mitigation

- 101 BCP and the Government have declared a climate emergency. Policy CS2 seeks to secure the use of green technology in new developments. In response to this:
- 8no. cycle parking spaces are proposed in a well overlooked location, with easy access for users. Conditions can secure delivery;
 - A (77sqm) 17.9m by 4.4m expanse of roof to the rear of the building is proposed to be fitted with a green/living roof with pebble edging to prevent wind uplift. This will assist in slowing the run off from approx. 25% of the building's roof. Details can be conditioned to secure appearance and delivery;
 - Upon the ridged roofs, 16no. solar PV panels are proposed on the southern faces to generate electricity and reduce reliance upon the national grid. Details can be conditioned to secure appearance and delivery; and
 - The applicant has indicated their intention to transition their deliveries over to an electric vehicle at a future date in the short term. This is not an element that can be conditioned but this approach is welcomed
- 102 The above matters will assist the development in offsetting it's the impacts of its carbon footprint. No sustainability details are given in respect of construction materials so an informative is suggested. As the proposal comprises a non-residential development, no payments towards SAMMS and/or Heathlands are required for this site.

Landscaping

- 103 The proposed green roof is positive and should be conditioned to secure deliver/implementation. The proposed site plan and D&A Statement shows some potential landscaping at the front and rear of the building and the floor plan describes "Perimeter dune grasses to promote stability". A perimeter of marram grass would have several benefits including softening the edge of the building, but the planting shown would all sit outside of the red line of the site and would require Grampian-style planning conditions. The land here is owned by the Council whom have not objected to the sand grass planting. The Ecologist raises some concerns in respect of two of the chosen planting species (see para 57), and a carefully worded condition is thus suggested.
- 104 Subject to a condition to secure the green roof and appropriate planting, the proposal would satisfy Policy 4.25 of the Bournemouth District Wide Local Plan and Policy CS41 of the Core Strategy.

Contamination

- 105 Environmental Health are not aware of any contamination on the site. Conditions would be needed to control the spread of dust to neighbouring beach huts and prevent liquid run-off into the sea/harbour during the construction phase.

Community Infrastructure Levy

- 106 The site/development is liable for Community Infrastructure Levy contributions for any net increases in floor space.

Summary

- 107 It is considered that the proposal:
- is acceptable in its siting, scale, height, and general massing being generally similar to the proportions of the former and previously approved Beach House Café and its

associated buildings, thus having no discernible impact upon the openness of the Green Belt or the setting and character of the Mudeford Sandbank area;

- has been designed to address flood risk and will not add to flooding issues in the area;
- has an attractive external design, including its ridged roofs and indicative materials that would successfully and sympathetically relate to the setting and character of the adjacent beach huts;
- is a continued appropriate recreational – leisure use, also in accordance with the objectives of the Mudeford Spit Management Plan;
- will be sufficiently controlled by conditions in respect of odour, noise, music and opening hours, augmented by revised premises licensing arrangements under the Licensing Act 2003;
- has a practical internal layout, better circulation space and well positioned windows, doors and decked areas, to enable a quicker turnaround for passing trade, with less opportunity for queue flow conflicts, and provides a newer electrical substation;
- provides ecological gain with additional bird boxes, green roof and native planting for example, and as such will not be detrimental to the designated EU sites, SSSI, Nature Reserve, or SNCI;
- is acceptable in highway terms, with members of the Public only being able to access Mudeford Spit by walking, cycling, horse riding or boat/ferry;
- satisfactorily addresses sustainability aims through the inclusion of a green roof and installation of solar panels to partly power the building; and
- provides sufficient benefits to local visual amenity, the local economy, tourism, biodiversity and amenities of beach hut users to outweigh the non-reprovision of the previously deleted 13.5sqm of storage space within the outbuilding.

Planning Balance

- 108 The former Beach House Café was approaching 60 years in age. This development will create a modern replacement that is fit-for-purpose to the needs of a modern, accessible, café and its diverse customers; using sustainable building techniques; incorporating suitable flood resilience, noise attenuation measures, and biodiversity enhancements.
- 109 Whilst approval of this structure would spur on the removal of the clutter of temporary shipping containers and regard should be had for the benefits of this proposal over the 11229-O scheme approved in 2021. Enactment of this new proposal would encompass the removal of the aging outbuildings to the rear of the site and delete the ugly service alleyway from the sandbank. The visual benefits would be wholly positive, particularly when combined with the application of robust conditions and sensitive proposals in respect of finish materials.
- 110 The combination of these component improvements would result in a development that is far more in keeping with this sensitive environmental location than the ramshackle remnants and temporary containers (separately proposed for only temporary retention); offers a better configuration of services to customers and staff; and embraces a set of amenity impact controls for the whole site to the benefit of adjacent beach hut users than the previous 11229-O approval.

- 111 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 NPPF and Development Plan; would not materially harm the character or appearance of the Green Belt, SSSI, Nature reserve or the Site of Nature Conservation Interest; and would be acceptable in terms of traffic safety, appearance, amenity impact and biodiversity enhancement.
- 112 The Development Plan Policies considered in reaching this decision are set out throughout this report.

Recommendation

- 113 **GRANT permission subject to** the following conditions:

Conditions

Standard 3 Year Time Limit

- a) Standard 3 year Implementation Condition from date of approval

Approved Plan Numbers

1 In Accordance with Approved Plans

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

201004/PL01 Rev A - Site Location Plan and Existing Site Plan,
201004/PL02 - Existing Elevations,
201004/PL03 - Existing Elevations,
201004/PL04 - Proposed Contextual Elevations,
201004/PL05 Rev A - Proposed Site/Roof Plan,
201004/PL06 Rev A - Proposed Floor Plan,
201004/PL07 Rev A - Proposed West and South Elevation,
201004/PL08 Rev A - Proposed East and North Elevation,
201004/PL09 Rev A - Proposed Sections,
201004/PL10 - Proposed Context Elevations,
201004/PL11 - Proposed Floor Area Allocations,
201004/PL12 - Like for like Floor Area Comparisons,
Unnumbered, dated 16.09.22 - Floor Area Comparisons
2926-SV-01 Topological Survey

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

Precommencement Requirement

2 D&CEMP Demolition and Construction environment management plan

No development shall take place, including any demolition works, until a construction management plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall provide for:

- 24 hour emergency contact number;
- Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- Locations for loading/unloading and storage of plant, waste and construction materials;
- Measures to protect vulnerable road users (cyclists and pedestrians)

- Any necessary temporary traffic management measures;
- Arrangements for turning vehicles;
- Arrangements to receive abnormal loads or unusually large vehicles;
- Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses;
- Dust suppression measures;
- Control measures to prevent chemical/fuel and other liquid contaminant run-off from construction into nearby waters;
- A noise / vibration assessment (see note 1);
- A Construction Method Statement (CMS) detailing precautionary measures and working methods to ensure that any potential negative impacts on the designated Mudeford Spit SNCI, Christchurch Harbour SSSI and Solent and Dorset Coast SPA during the construction phase are avoided (see note 2); and
- Arrangements for disposal of other waste during construction.

Note 1: The noise and vibration assessment should be based on British Standard 5225 – Part 1 and 2: 2009. The report shall provide details in relation to;

- a) the existing background noise climate in and around the surrounding area;
- b) the resultant noise levels from the proposed demolition and construction works;
- c) any proposed mitigation measures to minimise the impact;
- d) an indication of noisy works likely to be audible beyond the site boundary.

Note 2: The Construction Method Statement in respect of wildlife and habitat protection (on the designated Mudeford Spit SNCI, Christchurch Harbour SSSI and Solent and Dorset Coast SPA) shall include details of vehicular access, working footprint, storage of materials and hazardous substances, control of dust and liquid run-off and noise and lighting control measures to avoid temporary impacts on wildlife and the during construction.

All components of the approved Demolition & Construction Management Plan shall be implemented and adhered to in full throughout the demolition and construction period.

Reason: These details are required in advance of demolition and commencement in order to safeguard the daytime amenity of occupiers of adjoining and nearby beach huts and in the interest of pedestrian and highway safety, and with regard for biodiversity in accordance with Policies CS14, CS30 CS38 and CS41 of the Bournemouth Core Strategy (2012).

3 Construction Method Statement (Invasive Species)

No development shall take place, including any demolition works, until a Construction Method Statement (CMS) detailing the removal of Russian Vine (*Fallopia baldschuanica*) species on the application site has been submitted to and approved in writing by the Local Planning Authority.

The CMS shall provide details of the intended method of identification; removal process; onward processing from the site; and an on-going process for monitoring its resurgence on site, and a timetable for undertaking the different details. in accordance with section 5.6.2 of the Ecology Report (see Biodiversity conditions).

The approved CMS shall be accorded with at all times.

Reason: These details are required in advance of commencement in order to comply with National Planning Policy Framework (2021) to ensure the development enhances the natural and local environment by providing net gains for biodiversity in accordance with Policy CS30 of the Bournemouth Core Strategy (2012).

4 Surface Water Drainage (SuDS)

No part of the development hereby permitted shall be occupied until surface water drainage works incorporating the disposal of such surface water by way of a sustainable drainage

system have been fully provided in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, such details to include:

- (a) information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; and
- (b) a management and maintenance plan for the lifetime of the development which shall include details of any arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime; and
- (c) a timetable for implementation.

The surface water drainage works shall thereafter at all times be management and maintained in accordance with the approved details. The drainage works shall be completed in accordance with approved details in accordance the agreed timetable (c).

Reason: These details are required in advance of commencement in order to provide satisfactory drainage for the development in accordance with Policy CS4 of the Bournemouth Core Strategy (2012) and in order to achieve the objectives set out in the Local Planning Authority's Planning Guidance Note on Sustainable Urban Drainage Systems.

5 Foul Water

No part of the development hereby permitted shall be occupied until details of how foul water is to be disposed of from site have been fully provided in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, such details to include:

- a) confirmation that foul water and toilets will discharge into the mains sewer system;
- b) drawings locating the sewer, showing site sections and fall ratio and the manner of connection from the site, with details of any non-return valves and flood prevention systems to be utilised;
- c) a copy of advice received from Wessex Water (or any statutory Water/Sewerage Undertaker replacing them)
- d) confirmation that an Environment Agency discharge permit is required or that the installation meets the exemption;

The approved scheme shall be implemented prior to the commencement of the use and be permanently maintained thereafter.

Reason: In order to protect the environmental amenities of the immediate locality and to reduce the risk of flooding to the proposed development and future occupants in accordance with Policies CS38 and CS41 of the Bournemouth Core Strategy (2012).

6 Noise (Amplified Music)

No development shall take place until:

- a) an assessment on the potential for noise from the development affecting residential or commercial properties in the area has been submitted to and been approved in writing by the Local Planning Authority.

The noise assessment shall be carried out by a suitably qualified acoustic consultant/engineer and shall take into account the provisions of BS4142: 2014 "Method of rating industrial noise affecting mixed residential and industrial areas" and BS 8233: 2014 "Sound Insulation and Noise Insulation for Buildings - Code of Practice".

The assessment shall include noise created within the building from for example music and people noise but also noise created inside the building from equipment. The assessment

must also consider noise created by the business outside the building for example air conditioning and fridge/freezer motors.

If the assessment indicates that noise from the development is likely to affect 'noise sensitive premises' such as the beach huts or other commercial properties then no development shall take place until:

b) a detailed scheme of noise mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. The noise mitigation measures shall be designed so that nuisance will not be caused to the occupiers of adjacent noise sensitive premises by noise from the development.

The approved scheme shall be implemented prior to the commencement of the use and be permanently maintained thereafter.

Reason: These details are required in advance of commencement in order that noise levels may be agreed to safeguard the amenities of nearby beach hut users, to protect the environmental amenities of the immediate locality and in accordance with Policies CS38 and CS41 of the Bournemouth Core Strategy (2012).

Prior to slab laying or foundation work

7 Ground Levels

The development shall be carried out in accordance with approved sections drawing (PL09 Rev A):

- a) finished floor levels shall be set no lower than 2.15 metres above Ordnance Datum and site plans and section drawings shall show the proposed finished floor levels of all hard landscaped surfaces, and
- b) the Site Topological survey drawing (2926-SV-01) and datum shall inform site levels along all site boundaries, levels across the site and floor levels.

Reason: To ensure a satisfactory relationship between the position and floor levels of the development and the adjoining Beach Huts, in accordance with Policy CS41 of the Bournemouth Core Strategy (2012).

8 FRA Measures to be implemented:

The development shall be carried out in accordance with the submitted flood risk assessment (dated 11 March 2022, Ref: F7-2022-11229-P version 1.0) and the mitigation measures it details. The mitigation measures detailed within it shall be fully implemented prior to first commencement of the use hereby approved and be retained and maintained in full working order thereafter throughout the lifetime of the development.

Reason: In order to protect the environmental amenities of the immediate locality and to reduce the risk of flooding to the proposed development and future occupants in accordance with Policies CS38 and CS41 of the Bournemouth Core Strategy (2012).

9 On site working hours restricted:

All on-site working and deliveries to and from the site, associated with the implementation of this planning permission shall only be carried out between the hours of: Monday – Friday: 08.00 and 18.00
Saturdays: 08.00 and 13.00
and not at all on Sunday, Public and Bank Holidays.

Reason: To safeguard the morning and evening amenities of occupiers of adjoining and nearby beach huts and to accord with Policies CS14 and CS38 of the Bournemouth Core Strategy (2012).

Prior to above ground superstructure works

10 Finish Materials

Prior to the erection of any above ground superstructure, details of the proposed finish exterior materials to be applied to glazing, walls, roof areas, decked and other external flooring including any colour finish and texture shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be completed in accordance with the approved materials.

The details shall include information that does not conflict with the details required by conditions governing the delivery of the green roof and PV panels.

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

Within a set time post commencement or Prior to Re-commencement of the use

11 Solar Panels on Rooftop

Notwithstanding any details contained in any documents submitted in connection with the development hereby permitted, prior to the construction of any part of the development hereby permitted above base course level there shall be submitted to and approved in writing by the local planning authority details as to the *number, design and, type* of the proposed photo-voltaic solar panels to be provided as part of the development hereby permitted. Prior to the first use of any part of the development hereby permitted, the photo-voltaic solar panels shall be fully provided in accordance with the approved details and shall at all times thereafter be retained and maintained in working order.

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

12 Servicing & Waste Management Plan & Binstore

Within 4 months of the date of commencement of the development:

a) Scaled drawn plans of the bin store approved in the location indicated on plan nos. 201004/PL01 Rev A and 201004/PL05 Rev A shall be submitted in writing to the LPA for approval. (details shall include proposed elevations, plans, layouts, door and roof details, finish materials, security arrangements and lighting);

And,

Prior to the first use of any part of the development hereby permitted, the following information shall be submitted in writing to the Local Planning Authority for approval:

b) Servicing Management Plan, incorporating a Commercial Waste Management Plan (CWMP). The CWMP shall include details of an agreed commercial waste agreement to collect the types refuse generated by the business activity, together with details of frequency, likely vehicle and general arrangements in respect of the management of bins to ensure they will not be stored in the open or at the collection point apart from on the day of collection as augmented when part (a) of this condition is approved.

No installation or instatement of the details shall be undertaken until approval is given for them, in writing, by the Local Planning Authority. Once approved, the details shall be implemented on site when the commercial use hereby permitted recommences.

The approved details within sections (a) and (b) shall remain operative and the bin stores accessible to staff at all times while the building is in use.

Reason: To ensure that the business meets its duty under Environmental Protection Act 1990 (section34) to have suitable commercial waste agreement in place; to ensure the safe servicing and collection of waste so as not to impact negatively on local highway capacity or safety and in the interests of visual amenity, with regard for Policy CS41 of the Bournemouth Core Strategy (2012)

13 Noise and Odour (kitchens)

Within 4 months of the date of commencement of the development, the following information shall be submitted in writing to the Local Planning Authority for approval: details of the means of ventilation for the extraction and dispersal of cooking smells/fumes, including details of its method of construction, odour control measures, noise levels, its appearance and finish.

No installation or instatement of the details shall be undertaken until approval is given for them, in writing, by the Local Planning Authority. Once approved, the details shall be installed before the use hereby permitted commences and thereafter shall be permanently retained and maintained in working order.

Reason: In order to safeguard the amenity of adjoining properties and to protect the environmental amenities of the immediate locality and in accordance with Policies CS38 and CS41 of the Bournemouth Core Strategy (2012).

14 Hours of Use

No part of the development hereby permitted shall be open to the public on any day of the week outside the hours of 08:00 to 23:00. When open to the public the retractable roof canopy (over the seating area at front (west)) of the building hereby approved, shall not be open until 10.00 hours daily.

Reason: To safeguard the amenities of occupants of the adjacent beach huts and in the absence of viable public transport or lit walking options, to limit the noise and safety impacts of associated with the late night departure of staff and patrons of the commercial use from the Sandbank, and in accordance with Policies CS38 and CS41 of the Bournemouth Core Strategy (2012).

15 Café/Restaurant Use only

The premises hereby permitted shall be used for purposes comprising a café/restaurant, within Class E(b) to the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that Order with or without modification) only and for no other purpose including solely as a café/restaurant (Use Class E(b)). The takeaway function of the premises shall remain ancillary to the main eating area and not become the predominant use without the further specific grant of planning permission for any such change of use.

Reason: To ensure that the building continues to be used for community purposes in accordance with Policy CS12 of the Bournemouth Core Strategy (2012).

16 Service Vehicle Space and Cycle Parking Provision

Prior to the first use of any part of the development hereby permitted;

a) the cycle parking stands shall be constructed, laid out and demarcated in accordance with the details on approved drawing no 201004/PL06 Rev A, utilising coated or stainless-steel cycle stands (or a similar theft-proof corrosion-proof material) to limit the effect of sea air corrosion; and

b) the vehicle parking spaces for deliveries and turning areas shall be constructed, laid out and demarcated in accordance with the hereby approved plans;

Thereafter, these provisions (a) and (b) shall be retained and made available for these purposes.

Reason: To ensure the proper construction of the parking facilities, in the interests of highways safety, and to encourage the use of sustainable transport modes in accordance with Policies CS14, CS16, CS17 of the Bournemouth Core Strategy (2012) and the BCP Parking Standards SPD (2021).

17 Biodiversity Mitigations

Prior to the first use of any part of the development hereby permitted, the biodiversity habitat mitigations set out within the Ecological Appraisal Report (Revision no. 5, by Hampshire Ecological Services Ltd, dated 28.01.2022) (henceforth referred to as 'the approved Ecology Report') shall be implemented in full on site, with the omission of Silver Ragwort (*Jacobaea maritima*), as follows:

[a] Implementation of the Construction Method Statement approved by the D&CEMP condition (no.2) in respect of the precautionary measures and working methods to ensure that any potential negative impacts on wildlife and habitat during the construction phase are avoided;

[b] Implementation of the Construction Method Statement approved by the CMS condition (no.3) in respect of removing the Invasive Species *Fallopia baldschuanica* (Russian-vine)

[c] Implementation of the ongoing monitoring in respect of any resurgence of the named invasive species as approved in the CMS condition (no. 3), and future controlled removal of it from site - the requirement for which is detailed in section s.5.6.2 of the Ecology Report; and

Reason: To be compliant with National Planning Policy Framework (2021) paragraphs 8, 174 and 180 To ensure the development contributes to and enhances the natural and local environment by minimising impacts on and providing net gains for biodiversity in accordance with Policies CS30 and CS41 of the Bournemouth Core Strategy (2012) and to satisfy the landscaping improvements required by Policy 4.25 of the Bournemouth District Wide Local Plan.

18 Biodiversity Enhancement

(i) Prior to the first use of any part of the development hereby permitted, the biodiversity enhancements set out within the Ecological Appraisal Report (Revision no. 5, by Hampshire Ecological Services Ltd, dated 28.01.2022) (henceforth referred to as 'the approved Ecology Report') shall be implemented in full on site, with the omission of Silver Ragwort (*Jacobaea maritima*), as follows:

[a] New bat roosts to be provided in accordance with details given in s.5.6.3 and figure 6 in s.6 of the approved Ecology Report;

[b] New bird nesting to be provided in accordance with details given in s.5.6.4 and figure 6 in s.6 of the approved Ecology Report;

[c] New invertebrate boxes provision to be provided in accordance with details given in s.5.6.6, table 5.6.6.1 and figure 6 in s.6 of the approved Ecology Report;

[d] the submission in writing, to the LPA, evidence that an ecological consultant has visited the application site shown on approved drawings, in person; with written and photographic confirmation that the approved enhancements have been installed in full on this site.

(ii) The new planting in the form of:

[e] the living/green roof; and

[f] the sandbank grasses,

shall be planted out in accordance with the details given in s.5.6.5 and figure 5 in s.6 of approved document Ecological Appraisal Report (Revision no. 5, by Hampshire Ecological Services Ltd, dated 28th January 2022 no later than the end of the first planting season following substantial completion of the development hereby permitted or the first use of any part of it, whichever is the sooner. Any plant found damaged, removed, dead or dying in the first 5 years following its planting shall be replaced with one of the same species and similar size or such other species and size as has otherwise been submitted to and approved in writing by the local planning authority.

Bat boxes shall be installed at heights and aspect as given by Bat Conservation Trust advice available at: http://www.bats.org.uk/pages/bat_boxes.html.

(iii) All approved mitigations shall be maintained and retained in situ for the lifetime of the development.

Reason: To be compliant with National Planning Policy Framework (2021) paragraphs 8, 174 and 180 To ensure the development contributes to and enhances the natural and local environment by minimising impacts on and providing net gains for biodiversity in accordance with Policies CS30 and CS41 of the Bournemouth Core Strategy (2012) and to satisfy the landscaping improvements required by Policy 4.25 of the Bournemouth District Wide Local Plan.

19 External Lighting

Notwithstanding any details contained in any documents submitted in connection with the development hereby permitted, prior to the construction of any part of the development hereby permitted above base course level there shall be submitted to and approved in writing by the local planning authority details of all external lighting to be provided as part of the development hereby permitted. The details shall in particular include provisions:

(a) on the installation location[and operation of] of any such lighting which shall be in accordance with the recommendations and advice within section 5.6.3 of the approved Ecological Appraisal Report (Revision no. 5, by Hampshire Ecological Services Ltd, dated 28.01.2022); and

(b) to secure that:

(i) all external lighting, including security lighting, is connected to a timer so that it is extinguished overnight between 23.15h and 07:00h daily;

- (ii) any security lighting provided to building entrances shall be operated by PIR sensor until 00.00 that same night after which time the sensor shall remain off until the following evening; and
- (iii) any lighting installed to the exterior of the building:
 - (A) points downwards at an angle of no more than 30 degrees perpendicular from a point no higher than 2m above the ground level adjacent to the installation;
 - (B) does not face any window or decked area within or attached to any beach hut; and
 - (C) shall not be directed to shine light on the harbour or water.

Prior to the first use of any part of the development hereby permitted, the external lighting shall be fully provided in accordance with the approved details and shall at all times thereafter be operated in accordance with the approved details and at all times thereafter maintained in full working order.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no external lighting other than the external lighting approved as part of this condition shall be installed on any part of the application site.

Reason: In the interest of providing biodiversity net gains, conserve and improve landscape and townscape, biodiversity and habitats and to consider adjacent amenity and in accordance with Policies CS30 and CS41 of the Bournemouth Core Strategy (2012).

20 Contaminated Land Remediation (Watching Brief)

In the event that any contamination that has not previously been reported to the local planning authority as part of the planning application to which this permission relates is found during the implementation of the development hereby permitted then this shall be reported without any unreasonable delay (and in any event within 2 working days) to the local planning authority and work on any part of the application site that might be affected shall be suspended immediately and shall not recommence save to the extent as is necessary for the purposes of compliance with this condition until a risk assessment has been carried out, submitted to and approved in writing by the local planning authority and either:

- (a) the local planning authority has confirmed in writing that work can recommence without any further action; or
- (b) (i) detailed remediation scheme(s) in relating to that identified contamination which include:
 - (A) an appraisal of remediation options;
 - (B) identification of the preferred option(s);
 - (C) the proposed remediation objectives and remediation criteria;
 - (D) a description and programme of the works to be undertaken; and
 - (E) a verification plan which sets out the measures that will be undertaken to confirm that the approved remediation scheme has achieved its objectives and remediation criteria;

have been submitted to and approved in writing by the local planning authority and thereafter implemented in accordance with the approved scheme(s);

- (ii) verification report(s) which identify the results of the verification plan and confirms whether all the contamination objectives and remediation criteria set out in the relevant approved remediation scheme(s) have been met have been submitted to and approved in writing by the local planning authority; and

(iii) there has been submitted to and approved in writing by the local planning authority a verification report which confirms that all the objectives and remediation criteria of the approved remediation scheme to which it relates have been met.

The assessments, schemes, plans and reports required for the purposes of this condition shall only be undertaken by a person whose qualifications and experience have been previously submitted to and approved in writing by the local planning authority provided that the local planning authority will not withhold consent of any person unless it is considered that the person is not suitably qualified or experienced for the carrying out of such activities.

Reason: To ensure that the development is carried out safely in the public interest and in accordance with best practice and with Policy 3.20 of the Bournemouth District Wide Local Plan (2002).

Informatives

Materials

INFORMATIVE NOTE: To ensure the design excellence translates from approved plans to finished building, visually compatible exterior finish materials should be high quality, long-lasting and robust in this seaside location.

Maram grass planting

INFORMATIVE NOTE: The applicant/operator of the café should work with the Council (being the landlord) to secure an agreed approach to planting out the sandbank grasses in accordance with the requirements of condition 18(ii)[f].

Bats

INFORMATIVE NOTE: If bats are found during demolition, all work shall cease and if possible, part of structure that was removed and exposed bats put back into place. A bat ecologist shall be employed to address situation and Natural England and the LPA contacted.

Emergency Planning Advice from the Environment Agency

INFORMATIVE NOTE: The site is within the extreme still water tidal floodplain of Christchurch Harbour and Christchurch Bay, and would also be subject to wave impact from Christchurch Bay. The present day 1 in 200 year predicted still water flood level for this area is 2.01mAOD, and with the impact of climate change over a 75-100 year lifetime, this level would increase to 2.71mAOD-3.02mAOD respectively (using the most recent Higher Central climate change allowances set out within gov.uk).

You are advised to consider your responsibility with regards safe access/egress and emergency evacuation. If the design flood event were to occur, safe access and egress would be prevented, and significant flooding would occur within the café and surrounding area. The FRA sets out possible flood depths within the café area.

Bearing in mind this is an existing café business, a replacement café would not necessarily increase the existing risk at the site. It is however for you to decide whether, in the absence of safe access and egress, the risk to the users of the development can be mitigated by alternative means i.e. a flood warning and evacuation plan as there appears to be no safe refuge. In coming to a decision on the proposed development, you should therefore give careful consideration, in consultation with relevant specialists, to the mitigation measures proposed.

Specifically, consideration should be given to whether or not a flood response plan would enable users of the development to avoid the flood hazards identified. It should be noted that Section 4.3 of the FRA contains discussion in this regard.

The Environment Agency does not normally comment on or approve the adequacy of flood

emergency response and evacuation procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users.

Emergency Planning Advice from the LPA

INFORMATIVE NOTE: In addition to the operator or cafe manager subscribing to the Environment Agency early warning alert system in accordance with condition 7 it is also suggested that consideration be given to displaying live weather warnings heat/wind/flood risk on a display screen within a busy public area of the café whenever staff or customers are present on site. Risk Assessments should probably be undertaken in the event of lone working by staff outside normal opening hours with regards to flood risk but this related to HSE legislation, not administered by the Council.

Asbestos

INFORMATIVE NOTE: The grant of planning permission does not remove the separate legal requirements for the safe removal and disposal of asbestos during demolition which are subject to separate Environmental Health legislation and related controls outside the planning system.

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, and 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 did not seek pre-application advice but amended the proposal before submission to take account of previous decisions on the site. They were updated of any issues after the initial site visit and responded by submitting plans to clarify floorspace, cycle parking and waste storage, which were found to be acceptable when assessed against adopted policies. The application was thus recommended for approval at planning Committee.

Background Documents:

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

Please also refer to the report in respect of the 7-2021-11229-N Committee Report, also on this agenda

NB: Following parties to receive a copy of the decision notice:

- Environment Agency;
- Natural England;
- BCP Emergency Planning; and
- Dorset Wildlife Trust