

# Planning Committee

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| Application Address                       | Land near Toft Steps, Undercliff Drive, Bournemouth, BH5 1BN.   |
| Proposal                                  | Retention of single storey building with public toilets and space for start-up businesses falling within Class E (Commercial, Business and Service uses but excluding food and drink class) (Existing building benefited from temporary planning permission ref: 7-2020-15575-E) – Regulation 3 |
| Application Number                        | 7-2024-15575-G  |
| Applicant                                 | Bournemouth, Christchurch and Poole Council   |
| Agent                                     | Bournemouth, Christchurch and Poole Council   |
| Ward and Ward Member(s)                   | Boscombe West<br>Cllr Patrick Canavan and Cllr Gillian Martin   |
| Report Status                             | Public  |
| Meeting Date                              | 9 May 2024  |
| <b>Recommendation</b>                     | GRANT planning permission in accordance with the details set out below for the reasons as set out in the report subject to confirmation from the Environment Agency that the Flood Risk Assessment is acceptable.   |
| Reason for Referral to Planning Committee | Referred for consideration by the Director of Planning & Transport as BCP Council is the applicant.   |
| Case Officer                              | Steve Davies  |
| Is the proposal EIA Development?          | No  |

## **Description of Proposal**

1. Planning permission is sought for Retention of single storey building with public toilets and space for start-up businesses falling within Class E (Commercial, Business and Service uses but excluding food and drink class) (Existing original building benefited from temporary planning permission ref: 7-2020-15575-E) – Regulation 3.

- 2 The building comprises 3 shipping containers measuring 12.2m long and 2.47m deep but they are conjoined and externally clad so that the building looks like a single structure. The two containers at either end are to be used for business space the central unit is used as a public toilet. The public toilets have previously been located on this site and would separately in themselves constitute permitted development. Therefore, the report focuses on the commercial uses.
- 3 The applicant has described the commercial uses as follows: -

*The other two spaces will be used for business-start-up spaces for well-being and retail activities. They are being funded by the Bournemouth Towns Fund Better Boscombe Regeneration initiative and seek to provide affordable workspace for new enterprises setting up in this deprived area of BCP. Business operators need to either live or work in the Bournemouth Towns Fund area and are being offered highly discounted leases for 12 months to trial out new businesses in health and well-being. The businesses will change after 12 months, and will have business support during that time to support them in their growth and potential move to more permanent accommodation. They will be selected by BCP Seafront team and applicants will be assessed under a number of criteria.*

### **Description of Site and Surroundings**

- 4 Seafront and beach location. The application site lies just to the east of the Toft Steps zig-zag path. See the location shown below which is also below the Albany block of flats.



### **Relevant Planning History:**

- 5 7-2008-15575-A - Erection of 3 temporary portacabins - Regulation 3 – granted with conditions for a period of 3 years.
- 6 Various renewals since.
- 7 7-2020-15575-E – Retention of site for and replacement of 3 temporary module buildings - Regulation 3 - Regulation 3 - granted with conditions for a period of 3 years. This consent sought to replace the long standing portable buildings with 3 new container type structures.

### **Constraints**

8 The following constraints have been identified.

- Flood zone 1;
- The beach has an open space allocation and falls within the remit of policy CS31.

### **Public Sector Equalities Duty**

- 9 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**

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

### **Consultations**

- 13 Council Tourism Team – no response.
- 14 Flood and Coastal Erosion Risk Management – no response but long established portable buildings in this location.
- 15 Highway Officer – no objection.
- 16 Environment Agency – awaiting Environment Agency response.
- 17 Biodiversity – as the buildings are existing having been approved under the previous permission there is no requirement to consult. However, a condition regarding lighting is added to control future issues.

### **Representations**

- 18 Site notices were posted in the vicinity of the application site with an expiry date for consultation of 12/4/24.

19 No representations have been received from the general public.

### **Key Issues**

20 The main considerations involved with this application are:

- Impact on character and appearance of the area;
- Loss of open space;
- Impact on amenity;
- Flood risk;
- Noise.

### **Planning Policy Context**

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

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

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

Policy 3.28: Flooding  
Policy 5.1: Job Creation  
Policy 5.2 Small businesses  
Policy 5.3 New B1 uses

23 **Supplementary Planning Documents:**

Public Realm Strategy: Guiding Principles – SPD

24 **Other:**

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

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

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

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

Including the following relevant paragraphs:

Section 2 – Achieving Sustainable Development;

Paragraph 11 –

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

For **decision-taking** this means:

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

Section 6 – Building a strong, competitive economy;

Section 7 – Ensuring the vitality of town centres;

Section 8 – Promoting healthy and safe communities;

Section 12 – Achieving well-designed spaces;

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

Section 15 – Conserving and enhancing the natural environment.

## **Planning Assessment**

### **Principle of development**

- 26 A key objective of the Bournemouth Core Strategy through the policies as set out above seek to ensure sustainable communities through good quality development, supporting tourism and protecting spaces for recreation, walking and general enjoyment. Policies in the District Wide Local Plan support job creation, small businesses. Another matter of principle relates to the protection of public open space. The proposal for portable buildings has previously been approved. The relevance for the proposed uses is discussed in more detail below.
- 27 On the basis of the above, and notwithstanding the issue of the specific location and details and open space as discussed below, the proposal is considered generally acceptable in principle and in accordance with policy 5.1-5.3 of the District Wide Local Plan relating to support for the jobs and the economy.

### **Impact on character and appearance of the area**

- 28 The portable building are relatively discreet and non-descript and as they are set at the back of the promenade, they are not intrusive. Also, similar buildings have been in place for many

years now albeit they are now clad with boarding. The buildings now have French doors and will have a more open aspect to the promenade. However, this will add some interest to their appearance. The proposed business uses will add some activity to the area, but this will not be out of place. Only small amounts of waste are likely to be generated from the commercial uses however, a condition will be added to ensure that this is managed properly. The toilets will be managed in accordance with the other public toilets along the promenade.

- 29 On the basis of the above, it is considered that the proposals are in accordance with planning policy CS41 in respect of design and visual amenity.

#### Loss of Open space

- 30 The loss of open space was raised as an issue in respect of the previous refusal reason for the Beach Shack/Sandpiper on the West Cliff promenade. This was because the public beach area was being restricted to the café customers only. However, this proposal is different as it is not the public beach and there are many similar buildings against the undercliff such as cafes and even beach huts themselves that are privately occupied.
- 31 The main issue to consider is whether a commercial use is appropriate in this location. The original approval was for a surf school, and this was a use that supported the activities on the beach. The applicant has said that the proposed commercial uses will be selected having regard to the following criteria.

| Number    | Question   |
|-----------|--|
| <b>Q1</b> | How long has the business been operating?<br>* 2 years and under <b>considered</b> 'Start-up' and will score a 5 |
| <b>Q2</b> | Is the Business located in BCP?<br>* Preference is Boscombe or Springbourne and will score a 5.                  |
| <b>Q3</b> | Type of Business.<br>* Health and Wellbeing preferred.<br>* No catering offers.                                  |
| <b>Q4</b> | Is the business a good fit for the Seafront?   |
| <b>Q5</b> | Hours of Operation<br>* Preference, minimum of 5 Days<br>* Maximum allowed 06:00am to 22:00pm                    |
| <b>Q6</b> | Power Requirements.<br>* No excessive power draw.  |
| <b>Q7</b> | Jobs Created.<br>* Minimum 2 Full Time required  |

- 32 Questions 3 and 4 are most relevant to the beach front. Also, this will ensure a bespoke start up business type and the project clearly has significant regeneration and philanthropic benefits for the Council. Given the amount of beach area available and as there are already other concessions on the beach it is considered that it would be difficult to sustain an objection to the proposal in the current circumstances. It is considered that the proposal is a “one off” and would not be seen as precedent for further commercial uses on the beach front without strong justification. Policy CS31 deals with this matter and suggests that open space shouldn’t be lost *“except where it is demonstrated to be underused and surplus to requirements and except where the benefits arising from development outweigh the loss of the space”*. The space is not prime beach space and is located at the rear of the road and car parking area; within the context of the remaining public beach areas the open space area utilised represents a very tiny percentage of open space used in this manner.
- 33 On the basis of the above, the proposal is considered to be in general accordance with policy CS31 in so far as loss of open space. Whilst the proposal has an impact on the open space it is considered that the impact on the space is not significant and would not result in the proposal being contrary to this policy.

#### Impact on amenity

- 34 The proposal is unlikely to significantly increase activity in the area due to the relatively small floor area involved and in any event the beach front is generally busy. Any additional parking will be absorbed into the large seafront car park along the promenade. Also, there are no immediate residential properties, and the use would operate when the seafront area is often busy during normal daytime and evening hours. The nearest residential properties are an acceptable distance away that they would not be directly affected by noise and disturbance in this location, and the development would not be visually intrusive or overbearing to them. On this basis, it is considered that the proposal wouldn’t cause harm to amenity and would accord with policies CS38 and CS41 of the Bournemouth Core Strategy.

#### Flood risk

- 35 The application site is located in flood zone 1. This is the lowest category but given the potentially volatile seafront location the applicant has submitted a flood risk assessment and measures have been highlighted to deal with any emergency evacuation.
- 36 On the basis of the above and subject to the Environment Agency approval, the proposal would be compliant with policy CS4 of the Bournemouth Core Strategy document.

#### **Planning Balance / Conclusion**

- 37 As set out above it is considered that the proposal is acceptable in terms of design and impact. The main issue is the use of the buildings for a commercial use rather than being wholly ancillary to the seafront. Whilst some of the uses could potentially be sited elsewhere and do not specifically need to be beach side the regeneration and economic benefits for this specific funded project will help new start-up businesses at the early stage of their development.
- 38 Many of the core strategy policies and specifically CS6 and CS31 seek to ensure sustainable communities through good quality development, supporting tourism and protecting spaces for recreation, walking and general enjoyment. Whilst it is located on open space it also contributes to the seafront character and its appearance at present does not downgrade the seafront. The provision of commercial uses in this location is very small scale and the

possible concerns with establishing a business can be weighed against the clear benefits of the regeneration project.

- 39 Given the temporary and portable nature of the proposal compared with a brick structure it is recommended that a 10 year temporary permission is granted. This is a longer period than the previous permission however, it is now clear that the containers are robust, and a longer period is justified on this basis. This will give the Council the opportunity to review the appearance and impact in the future.
- 40 Therefore, having considered the appropriate development plan policy and other material considerations, including the NPPF, it is considered that subject to compliance with the conditions attached to this permission, the development would be in accordance with the Development Plan, would not materially harm the character or appearance of the area or the amenities of neighbouring and proposed occupiers and would be acceptable in terms of traffic safety and convenience. The Development Plan Policies considered in reaching this decision are set out above.

### **Recommendation**

- 41 **GRANT** permission with the following conditions, which are subject to alteration/addition by the Head of Planning Services provided any alteration/addition does not go to the core of the decision and subject to confirmation from the Environment Agency that the Flood Risk Assessment is acceptable:

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

The development hereby permitted shall be carried out in accordance with the following approved plans: 87.GA.01, 02, 03

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

#### **2. Temporary permission expiring**

On or before the period of 10 years from the date of this permission the portable buildings and any ancillary structures hereby permitted as shown by the submitted 1:100 floor plans and elevations and the 1:200 scale site layout plan, shall be removed in their entirety and the land restored to its condition before the development hereby permitted took place (as part of the open beach promenade).

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

#### **3. External Lighting**

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

Reason: In the interests of visual amenity and given the site location on the seafront all to accord with policies CS31 and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012) and in accordance with the NPPF (2023).

#### **4. Flood risk management and emergency evacuation plan**

No part of the development hereby permitted shall be used or operated unless:

- (a) all the measures identified in the approved Flood Risk Management Plan submitted with the application have first been provided in full and the development shall at all times only be used and operated in accordance with the provisions identified in the approved Flood Risk Management Plan; and
- (b) following consultation with the Environmental Agency on the required content of a Flood Emergency Evacuation Plan ("FEEP"), a FEEP has first been submitted to and approved in writing by the local planning authority. The submission shall be accompanied with full details of the consultation with the Environment Agency including in particular, any express requirements and any issues of concern raised by them. The approved FEEP shall be accorded with at all times.

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

#### **5. Hours of Use**

The use hereby permitted shall not be used outside the following times: 06.00 hours and 22.00 hours.

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

#### **6. Waste condition**

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

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

#### **7. Restrictions on Class E uses**

The Class E uses of the premises hereby permitted shall at all times be restricted only to businesses that have been selected by the "Bournemouth Towns Fund project or any similar BCP Council initiative" and shall accord with the criteria set out in the "Toft Box Park Application Questions" document submitted with the application.

Reason: Permission has been granted only having regard to the special circumstances of this case in view of the applicant's proposed use of the property and in accordance with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

## **8. Delivery and Service Plan**

Within 3 months of the date consent is hereby granted details of a delivery and servicing plan (DSP) detailing servicing arrangement including the location, times and frequency shall be submitted to and approved in writing by the Planning Authority. The development shall thereafter operate strictly in accordance with the details so approved, shall be maintained as such thereafter and no change therefrom shall take place without the prior written consent of the Local Planning Authority.

Reason: In order to reduce or mitigate the impacts of the development upon the local highway network and surrounding neighbourhood by reducing reliance on the heavy goods vehicles for journeys to and from the site and to accord with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

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

### **Statement required by National Planning Policy Framework**

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

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

In this instance:

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

### **Background Documents:**

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

Notes.

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

Reference to published works is not included.