

# Planning Committee

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| Application Address                       | Branksome Chine Cafe, Pinecliff Road, Poole, BH13 6LP  |
| Proposal                                  | Internal and external alterations and extensions to the existing cafe/restaurant premises. Vary Condition 8 (operating hours) of APP/22/00159/F. |
| Application Number                        | APP/23/01286/F   |
| Applicant                                 | Rockwater Sandbanks & Branksome Ltd  |
| Agent                                     | Pure Town Planning   |
| Ward and Ward Member(s)                   | Canford Cliffs Ward:-<br>Cllr Challinor<br>Cllr Wright   |
| Report Status                             | Public   |
| Meeting Date                              | 18 April 2024  |
| <b>Summary of Recommendation</b>          | <b>Grant in accordance with the details set out below for the reasons as set out in the report</b>   |
| Reason for Referral to Planning Committee | Over 20 objections contrary to the recommendation to approve.  |
| Case Officer                              | Laura Sims/Steve Llewellyn   |
| Is the proposal EIA Development?          | No   |

## Description of Proposal

1. The proposed development is for the variation of Condition 8 of application APP/22/00159/F which approved internal and external alterations and extensions to the existing cafe/restaurant premises at Branksome Chine Cafe, Pinecliff Road, Poole.

2. Condition 8 relates to operating hours and states:

The café/restaurant shall not operate to customers otherwise than between 07:00 and 23:00 on Mondays to Sundays inclusive."

Reason - In the interest of the amenities of adjoining and nearby residential properties and in accordance with the Policy PP27 of the Poole Local Plan (November 2018).

3. The proposed variation of Condition 8 which is the subject of this application is as follows:

The café/restaurant shall not operate to customers otherwise than between 07:00 and 23:00 on Sunday to Wednesday inclusive and between 07:00 and Midnight on Thursday to Saturday

inclusive. With the exception of New Years Eve having opening hours of between 07:00 and 02:00 New Years Day.

4. Signs are proposed to be installed instructing people to leave quietly, and a full CCTV camera system has been installed inside and outside of the premises. The submitted supporting letter states that these measures are to “encourage customers to behave responsibly when leaving the building”.
5. The supporting letter also argues that the nature of the premises as a restaurant, the quality of the restaurant and, arguably, a more responsible clientele and the existing noise levels from the road are all mitigating factors that would reduce any harm to the living conditions of the nearest residential occupiers.

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

6. The application relates to the Rockwater Restaurant and the adjoining public car park previously known as the Branksome Chine Café. The site is occupied by a two storey art deco style building which has been extended to the south with an extensive contemporary addition facing the beach, with a large terrace and balconies adjacent to the promenade.
7. The restaurant is located adjoining a public car park adjacent to the beach in a prominent beachfront location. There are also public toilets, a shop/takeaway and lifeguard office to the east of the car park. Beach huts are situated along the beach in both directions adjacent to the application site. Due to the beachfront location and facilities available, it is a busy and thriving location serving evident tourism and recreational needs in the area. The overall site is an important part of the wider tourism offer in BCP.
8. The application building is locally listed and is located at the southerly edge of the Branksome Park and Chine Gardens Conservation Area. The land rises steeply to the north, east and west.
9. The nearest dwellings to the application site are Flats 1-12 Chatsworth, Westminster Road (approx.. 70m north at the closest point to the restaurant building) Flats 1-10 Denecote Lodge, Westminster Road (approx.. 70m NE) and flats 1 -6 Branksome Grange, 1 Lakeside (approx.. 110m NW). There are approximately 22 dwellings within around 70m of the application site and within 200m of the restaurant building there are a number of further dwellings on Lakeside and other blocks of flats along The Avenue and Westminster Road.
10. Chatsworth, Denecote and Branksome Grange are visible from the application site. These blocks are elevated above the site. There is landscaping and mature trees on the steep banks towards these dwellings and some mature cedar trees around these sites, however, many of the flats in these building command fine sea views and thereby views towards the restaurant and car park.

### **Relevant Planning History:**

11. APP/22/00159/F - Internal and external alterations and extensions to the existing cafe/restaurant premises – APPROVED 18/12/2022
12. APP/22/00538/F- Erect temporary and removable timber decking area on the beach to the south-east of the Branksome Chine Cafe/Restaurant and Shack (NB: for clarification, revised plans received 14/06/2022 delete a second area of decking to the east (annotated as 'decking 1' on the plans originally received) from the planning application)- APPROVED.

### **Other Matters**

13. The premises licence for the site was approved on 04/10/2023. The licensable activities include: Live Music, Recorded Music, Activity like Music / Dance, Late Night Refreshment, Supply of Alcohol from 10.00-00.00 hours Monday to Sunday and the opening hours are Monday to Sunday - 10:00 to 00:30. The licence also states that live, recorded and anything similar to live and recorded music shall take place outdoors during the summer months only, from 1st May to 30th September inclusive. All outdoors regulated entertainment shall terminate at 23:30 hrs.

## **Constraints**

14. The application building is Locally Listed.
15. The site is located within and at the southern end of the Branksome Park and Chine Gardens Conservation Area. The Conservation Area boundary ends at the rear/south of the application building and includes the car park and the shop/public toilets and east of the car park, which are also locally listed.
16. The site is within the present day Flood Zone 3 on the Environment Agency's Flooding Map and is thus identified as a site with a high risk of flooding.

## **Public Sector Equalities Duty**

17. 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**

18. 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.
19. 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.
20. 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.
21. For the purposes of this report regard has been had to the Human Rights Act 1998, the Human Rights Convention and relevant related issues of proportionality.

## **Consultations**

22. BCP Highways – No objection - Condition 8 was imposed for residential amenity reasons, it was not related to any highway impact of the proposal. The Highway Authority raise no objections to the change in operating hours as there will be no significant impact on the highway from the variation.  
14/11/2023
23. BCP Biodiversity Officer – No objection
24. BCP Environmental Health – No objection

"When APP/22/00159/F was submitted last year, Environmental Health did not object to the hours applied for as they were in line with the historically permitted and licenced hours as they stood. A decision was made by yourselves to offer more limited hours than those applied for at the time of that

decision. Our stance has not changed from last year and therefore we have no objection to the hours applied for in this current application.” 10/01/2024

Environmental Health also confirmed in a subsequent comment (25/03/2024) that they have arranged to monitor future events and have arranged to install monitoring equipment with a resident when this happens;

They have not witnessed any noise amounting to a Statutory Nuisance to date.

With regard to their powers to act, should a premises be found to be causing a Public Nuisance then Environmental Health can request a review of the Premises Licence. This review if called would lead to a licensing committee hearing where the case is heard. Depending on the outcome of the review hearing various actions could follow including changes being made to the terms of the licence or even in severe circumstances, revocation of the licence. Members of the Public also have the power to call a review of a premises licence under the terms of the Licensing Act 2003.

## **Representations**

25. Site notices were posted outside the site on 23/11/2023 with an expiry date of 18/12/2023.

26. 52 letters of representation have been received with a number of properties having commented more than once. The issues raised are summarised below:

- The use is a café/restaurant not a nightclub.
- The use is already causing a nuisance to the area with dazzlingly bright lights.
- Why didn't they apply for these hours of use in the first place?
- They already have a three hour extension
- Is there any need for late night dining?
- Operating hours have already been assessed in previous application
- It feels like a takeover of the beach
- Has a total disregard to the amenity of local residents.
- Noise is already impacting residential amenity without extended hours.
- Noise disrupting sleep
- Impact on residential amenities of the nearest residents
- Creates a statutory nuisance
- Loud noise from tipping bottles into bins late at night
- Noise assessment should be carried out
- BS4142 should be considered
- Lack of sound proofing
- Noise worse at weekends when sliding roof is open.
- The off season is bad what will it be like in summer?
- Noise from comings and goings, patrons, staff, doors slamming, engine noise and music
- The road was not busy or noisy after 23.00 prior to Rockwater
- Concerned that if this does become noisy there will be no one to help.
- Previous events are anti social behaviour
- Bright Lights
- Quiet Neighbourhood with elderly residents
- Crime and drug dealing reported to police by residents
- Owner Flouts the rules
- Negative consequences for the local community – increase crime – noise – drink driving – Section 17 of the Crime and Disorder Act 1998 due regard should be had, approval would indicate blatant disregard.
- Anti-social behaviour
- Staff encouraged to park in surrounding streets
- Parking is reduced for other visitors to the beach
- Beach road car park is not suitable or well signposted.
- Patrons advised to park in residential roads locally

- The operator owns other late night venues
- We needed local authority and elected representatives to support us
- No public transport,
- Concerns re drink driving, taxis, comings and goings
- Proposed measures, signage, video monitoring do not help
- Recent building work has spoilt this part of the beach
- WHO and Various bodies accept 11pm as start of night time
- Impact on wildlife
- Natural beauty and tranquillity should be cherished and preserved.
- Other applications for this building add to the problem
- later opening is a matter of significant concern for our local residents.

### **Key Issue(s)**

27. Matters relating to the impact of the proposed internal and external alterations and extensions were considered under APP/22/00159/F and this included a full assessment of the impact upon the character and appearance of locally listed building and Conservation Area, impact on amenity of neighbours, opening hours, impact on highways and parking, flooding, biodiversity, waste collection and sustainability considerations as well as other matters raised in representations.
28. The current proposal is for the variation of Condition 8 for application APP/22/00159/F, which relates to operating hours of the café/restaurant. The approved operating hours are from 07:00 and 23:00 on Mondays to Sundays. The proposed operating hours would be;
- 07:00 and 23:00 on Sunday to Wednesday and;
  - 07:00 and Midnight on Thursday to Saturday

This which would result in one additional hour from 23.00 – 00:00 Thursday, Friday and Saturday evenings over the existing opening hours.

In addition, permission is sought to allow opening until 02:00 on New Year's Eve.

29. The conditions attached to a permission can be amended by an application under Section 73 Town and Country Planning Act 1990). Central Government's advice in the National Planning Practice Guidance (NPPG) on Flexible Options for Planning Permissions states that a permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.
30. In addition, the NPPG on the Use of Conditions also states that;
- In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application. A local planning authority decision to refuse an application under section 73 can be appealed to the Secretary of State, who will also only consider the condition/s in question.
31. The Central Government guidance further states

In granting permission under section 73 the local planning authority may also impose new conditions – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission. For the purpose of clarity, decision notices for the grant of planning permission under section 73 should set out all of the conditions imposed on the new

permission, and restate the conditions imposed on earlier permissions that continue to have effect.

32. The physical works granted by APP/22/00159/F have been implemented and the use commenced. Therefore, this assessment considers the impact of the variation of condition 8 to allow for the additional hours proposed. The key issues that relate to the additional operating hours are:

- Principle of Development
- Extent of existing use
- Impact on neighbouring living conditions
- Impact on highways and parking.

33. These issues will be considered along with other matters relevant to this proposal below.

### **Policy context**

34. Local documents:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications must be determined in accordance with the development plan for an area, except where material considerations indicate otherwise. The development plan in this case comprises the Poole Local Plan (2018).

#### **Poole Local Plan 2018**

Policy PP1 Presumption in favour of sustainable development

Policy PP23 Tourism and the evening/night time economy

Policy PP27 Design

Policy PP34 Transport Strategy

Policy PP35 A safe, connected and accessible transport network

Policy PP37 Building sustainable homes and businesses

#### **Other Development Plan Documents**

Branksome Park Conservation Area Character Appraisal and Management Plan (2006). It is however noted that the site was not located within this Conservation Area in 2006 (Conservation Area was updated in 2014).

National Planning Policy Framework (December 2023)

National Planning Practice Guidance

### **Planning Assessment**

#### **Principle of Development**

35. The Poole Local Plan adopted in 2018 sets out in Policy PP1 that the Council will take a positive approach to development that reflects the presumption in favour of sustainable development contained in the NPPF. The Council will always work pro-actively with applicants so that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

36. The National Planning Policy Framework states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt and consideration should be given to the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The social objective aims to support strong, vibrant and healthy communities by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being. The environmental objective aims to protect and enhance our natural, built and historic environment by inter alia, minimising waste and pollution.
37. Amongst other things the NPPF states that planning policies and decisions should be flexible enough to accommodate needs not anticipated in the plan and allow for new and flexible working practices.
38. The Poole Local Plan 2018 Policy PP23 states that development proposals which support growth and generate opportunities in Poole's tourism sector will be encouraged. Development proposals within Poole's tourist attractions will be permitted provided that they support high quality, well-designed new or improved facilities... and avoid significant harm to environmental and amenity objectives, unless such harm can be mitigated.
39. No change of use or alteration to the existing building is proposed under this variation of condition application and the principle of the café/restaurant in this location has been established on the site by way of historic operation over many years and this has been continued by the applicant.
40. The existing use is already established, and the principle of this development is acceptable subject to an assessment of the impact of the proposed increased operating hours and its compliance with relevant policies.

#### **Extent of existing use**

41. Under the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (the UCO), the existing use of the premises as a café/restaurant falls within Class E, Commercial, Business and Service, which is for use, or part use, for "food and drink which is mostly consumed on the premises". Class E was created by an amendment to the UCO in 2020 and brings together a number of previously separate Use Classes into a single Use Class including shops, restaurants, financial & professional services, indoor sport or recreation, medical/health services, creche/day nursery, offices, research and development and light industrial use. This allows commercial premises to flexibly change their operation without the need for planning permission.
42. Under the same Regulations a nightclub, public house, wine bar, drinking establishment with or without expanded food provision or a live music performance venue, amongst other things, come under *sui generis* uses. Therefore planning permission is required for a change of use for a Class E use to change to any of the above uses.
43. APP/22/00159/F was an approval for extensions alterations to the existing cafe/restaurant premises. There was no change of use of the premises granted. As a variation of condition of this earlier permission, the current application cannot grant a change of use of the site. Therefore if the application is granted, the lawful use of the site remains as a café/restaurant which has been its use for many years. The supporting letter and description of development for this application confirm this.
44. Many of the letters of objection refer to a live music event at the restaurant and many of the concerns raised by neighbours are about the potential noise and disturbance this site could cause. Officers have been advised was a one-off promotional event. Any proposed use of the site outside the lawful Class E use on the site would require an application for a change the use.
45. As noted above, different restrictions apply to the premises under its Licence. It is a fundamental tenet of the planning process that it should only be used to control matters relevant to planning. Where a separate consent regime controls a relevant matter, such as Building Regs or Licensing, the planning process should not be used to control these aspects. Different considerations apply under the Licensing regime. In particular, it would rarely be material who an applicant or operator is under the planning process as the planning permission runs with the land and is not personal to the

applicant. Conversely, for the same reasons, the existence of different hours or conditions for a premises on their Licence or their lease does not prevent the planning process imposing different requirements where these are justified after considering the application on its planning merits.

46. The applicant has to comply with all consents, so would have to keep within the planning, licensing and lease operating restrictions. In this case it is noted the planning operating hours are less than what would be permitted under the premises licence. Planning enforcement action can be taken if operating hours under a planning permission are breached where this is expedient.
47. Therefore, the application is assessed as an existing use as a café/restaurant and does not consider or permit any other use. The licencing and leasing terms also offer potential control over the use of the application site separate to the planning process.

#### **Impact of the proposal on neighbouring living conditions.**

48. The overriding concern with the proposed extension of operating hours relates to noise and disturbance from the later opening times and patrons leaving the premises later. Policy PP27 of the Poole Local Plan states that development will be permitted where it is compatible with surrounding uses and would not result in a harmful impact on amenity for local residents and future occupiers in terms of sunlight, daylight, privacy, noise and whether it would be overbearing or oppressive. In addition PP23 advises that proposals that add vitality and viability to Poole's main evening/night time economy centres will be permitted, provided that the development will not, either individually or cumulatively, harm the character of the area or residential amenity in terms of noise, light and other emissions, or result in a harmful concentration of food and drink uses;
49. The NPPF states that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area, over the lifetime of the development and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users (para.135).
50. The existing use by Rockwater was fully assessed in the previous application and was approved with a condition restricting the hours of use from 07:00 – 23:00 Monday to Sunday. It is worth noting that the requested operating hours set out on the application form were 07:00 – 00:00 Monday to Sunday. After assessing the application and the concerns raised in representations the planning officer considered that a restriction to the operating hours would be helpful as set out in paragraph 90 of the APP/22/00159/F committee Report which states:

It is noted that the proposal does seek to open from 07:00 which is earlier than existing however as discussed Environmental Health have not objected to the scheme on any grounds including noise. It is however recognised that numerous objections have concerns about late opening hours and associated noise. Whilst there is no evidence to suggest that the proposed works would result in significant levels of additional noise, it is noted that 23:00 is generally accepted as the start of night time by various bodies and documents such as the World Health Organisation and British Standards. Furthermore, other similar venues in close proximity such as The Cliff closes at 11pm. As such, whilst Environmental Health have not suggested any opening hours, the local planning authority view it as reasonable to condition the opening hours from 07:00 to 23:00 in light of the proposed works and increased floor space, to ensure the neighbouring amenity is ensured.

51. In light of the above it was considered prudent to restrict the operating hours and there is no disagreement with that decision. We are now essentially being asked in this application what would be the harm of allowing an additional hour on three nights of the week, principally over the weekend and extended hours on New Years Eve for the existing use as a restaurant/café.
52. The presumption to be applied to all applications is that they are approved unless an overriding harm can be demonstrated. The representations from the neighbours express concerns regarding the existing use up to 23:00 and the disturbance that has been caused by events at the application site. Comments refer to the retractable roof, bright lights and bass sounds. Outside of the business hours,



concerns relate to car doors slamming comings and goings of customers and staff late at night, emptying of bottles into bins and how this disrupts a quiet residential area.

53. As noise and disturbance has been raised by 3<sup>rd</sup> parties, officers have consulted with Environmental Health (EHO). Their comments are in para. 24 above. The EHO has no objection to the proposed increase in operating hours for the restaurant/café and had no objection to the previous application. Further advice was also sought from the EHO to establish the level of control available to control potential statutory noise issues. The EHO also confirmed the powers they have to deal with a premises found to be causing a Public Nuisance and that members of the Public also have the power to call a review of a premises licence.
54. Additionally, our EHO has arranged to monitor future events and has arranged to install monitoring equipment with a resident when this happens.
55. The distances to the nearest residential properties are set out in para. 9 above. With regards to noise generated by comings and goings through parking, the EHO has no objection in relation to the proposal. The car park adjoining the site is a public car park and is not exclusively for the use of the applicant. Whilst comings and goings later at weekends may be associated with the restaurant, there is a difficulty in demonstrating all anti-social behaviour or noise within the public car park is attributable to patrons. The impacts of the comings and goings of the proposed later opening has been considered on its merits on the basis of a typical operator of a café/restaurant. No weight has been given to the purported nature of customers in the agent's supporting letter in para. 5 above in making this assessment as there is no recognisable way of demonstrating this to be the case.
56. It is noted that there is an approved Parking and Services Management Strategy that has been approved conditionally in relation to application APP/22/00159/F. This encourages use of public transport, cycles, alternative public car parks and potentially a minibus service for staff. This approved strategy can be carried over to this application.
57. With regard to lighting, there is already a condition attached to the approved application, Condition 9 which restricts the direction and intensity of lighting on site. This can also be reapplied.
58. Overall there is a lack of compelling evidence that an extra hour of operation of the restaurant from Thurs – Sun causes such significant harm to the living conditions of the nearest residential properties that this significantly and demonstrably outweighs the benefits of the scheme in terms of the town's tourism offer and its economic benefits.
59. Notwithstanding this, it is also possible to add relevant conditions to provide additional mitigation if they are considered necessary. In order to control potential noise impacts, a condition that requires no amplified sound or music on the premises to be audible outside of the premises is considered reasonable for what is a restaurant.
60. It was also raised that some associated activities, such as emptying bottles into a bin, can occur late at night and cause unnecessary noise and disturbance. Considering the proposed increase in operating hours, it is also considered to be relevant and necessary to include a condition that restricts the noise generating activities late at night, such as emptying bottles into an external refuse bin.
61. Therefore, it is considered that the proposed increase in operating hours would have acceptable impacts on neighbouring living conditions subject to the inclusion of conditions from the previous planning permission and additional safeguards set out above. The additional hours at New Year's Eve are a single annual event at a time when many other parts of the nighttime economy would similarly be operating and this is not considered substantially harmful that it would warrant refusal of the application as a whole. With the mitigation identified, the scheme is considered to comply with Policies PP23 & PP27.

### **Impact on highways and parking**

62. There are a number of objections relating to the impact of the proposed on parking, the inadequacy of measures to encourage the use Beach Road Car Park and the potential shortfall in parking provision

due to the increased use related to the restaurant. The scheme does not increase the no. of covers available in the premises and the additional hour of operation three days per week is considered to have a minor- to nominal impact on traffic movements to the site and demand within the car park.

63. Highways were consulted and had no objection to the proposed increase in operating hours. Control of the car park generally remains with BCP Council. Subject to monitoring the effectiveness of the Parking and Servicing Strategy, the proposal thereby accords with Policies PP34 and PP35 of the Poole Local Plan 2018.

#### **Other matters**

64. Concerns were raised regarding the impact of the proposed on biodiversity. The Biodiversity Officer was consulted and had no objection to the proposed increase in hours. The above mentioned lighting condition was applied to ensure the protected species are not detrimentally impacted upon as a result of the development. This condition is recommended to be reapplied in the event of an approval.
65. There were comments relating to other uses not having the benefit of longer hours and unfair advantage. However, competition between or impacts on other operators is typically not a material planning consideration. Other similar uses would be entitled to apply to vary operating hours if necessary and have such an application assessed on its own merits.
66. There was also concern that the operator has other sites that operate as late night venues. The application has been considered on its planning merits and not on the basis of who the applicant is or if they have different operations elsewhere.

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

67. The principle of the use of the premises as a restaurant from 07:00 hours until 23:00 has already been accepted on this site. The proposed development is the extension of the operating hours by one hour on Thursday to Saturday until 00:00 and extended opening hours on New Years Eve until 02:00 on New Years Day.
68. The main consideration with regards to the proposed extended operating hours for the restaurant use is the impact of the proposed development on neighbouring living conditions through noise and disturbance and the impact of the proposed on highway safety. On both these matters there has been no objection from the EHO or the Highways Authority. It has also been clarified that ongoing monitoring of noise will be taking place and the use of the site is controlled by the terms of any planning, licencing or lease agreement and that further measures can be applied to control the use, if necessary outside of the planning process.
69. In order to mitigate any potential impacts from the longer opening hours, conditions will be added in respect of external noise from the use and previous conditions reapplied where relevant.
70. The scheme has evident economic and social benefits from the continued operation of this commercial facility in a busy tourist location on the beachfront. Appropriate safeguards in the form of conditions mean that the environmental impacts are neutral. The scheme therefore represents sustainable development. The proposed extension of operating hours for the existing restaurant use is considered to be acceptable. As such, the proposed development is considered to comply with the Development Plan as a whole and policies within the NPPF and is recommended for approval.

#### **Recommendation**

71. It is therefore recommended that this application be approved subject to conditions.

#### **Conditions**

1. The development hereby permitted shall be carried out in accordance with the following approved Location Plan, Drg No. DT128/5/A

Site Map, Drg No 10, received 4th February 2022  
Proposed Ground Floor, Drg No. 6, received 4th February 2022  
Proposed First Floor, Drg No. 7, received 4th February 2022  
Proposed Roof Plan, Drg No. 8, received 4th February 2022  
Proposed Elevations, Drg No. 9B Revision B received 7th December 2022

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

2. The café/restaurant shall not operate to customers otherwise than between;

07:00 - 23:00 Sunday to Wednesday inclusive and ;  
07:00 – 00:00 Thursday to Saturday inclusive.

With the exception of New Years Eve having opening hours of between 07:00 and 02:00 New Years Day.

Reason – In the interest of the amenities of adjoining and nearby residential properties and in accordance with Policy PP27 of the Poole Local Plan (November 2018).

3. No sound amplifying equipment or music, which would produce audible noise outside the premises shall be installed or played without the prior written consent of the Local Planning Authority.

Reason - In the interests of the amenities of occupiers of nearby properties and in accordance with Policy PP27 of the Poole Local Plan (November 2018).

4. Noise generating activities, such as emptying bottles into refuse bins shall not take place externally before 07:00 or after 22:00.

Reason - To protect the general amenity of adjoining noise sensitive development from harmful noise emissions and in accordance with Policy PP27 of the Poole Local Plan (November 2018).

5. Secure cycle parking for 6 cycles is to be retained in accordance with the approved Proposed Site Plan (cycle Provision), Drg No. 324-129 received on 04/08/2023 and approved on 14/08/2023 in relation to APP/22/00159/F.

Reason - In order to secure the provisions of appropriate facilities for cyclists and in accordance with Policies PP27, PP34, PP35 and PP36 of the Poole Local Plan (November 2018).

6. The use of the site shall be operated in accordance with 'Parking and Servicing Management Strategy' by Petter Gunning & Partners LLP as received on 4th August 2023 and approved on 14/08/2023 in relation to APP/22/00159/F.

Reason - In the interests of highway safety and in accordance with Policy PP35 of the Poole Local Plan (November 2018).

7. The Flood Warning and Evacuation Plan (FWEP) by SLR Consulting Limited, Reg 237305, approved on 06/09/2023 in relation to APP/22/00159/F shall be displayed at the development at all times.

Reason - In order to prevent risk from flooding and in accordance with Policy PP38 of the Poole Local Plan (November 2018).

8. Any external lighting shall be directional, only illuminating areas used by public and shall have a colour temperature less than 2700 Kelvin, with peak wave lengths greater than 550nm, in accordance with 'Bats and artificial lighting in the UK' by the Bat Conservation Trust (BCT) and Institute of lighting Professionals (ILP/BCT) (2018).

Reason: To ensure the protected species are not detrimentally impacted as a result of the development, in accordance with Policy PP33 of the Poole Local Plan (2018).

9. The information approved on 29/08/2023 in relation to APP/22/00159/F which demonstrates details of measures to provide on site renewable energy sources shall be retained thereafter.

Reason - In the interests of delivering a sustainable scheme, reducing carbon emissions, and reducing reliance on centralised energy supply, and in accordance with Policy PP37(2) of the Poole Local Plan (November 2018). in accordance with the Poole Local Plan adopted 2018.

**Informative Note(s):-**

1. In accordance with the provisions of paragraphs 38 of the NPPF the Local Planning Authority (LPA) takes a positive and creative approach to development proposals focused on solutions. The LPA work with applicants/agents in a positive and proactive manner by; - offering a pre-application advice service, and - advising applicants of any issues that may arise during the consideration of their application and, where possible, suggesting solutions. - the application was considered and approved without delay
2. As a minimum action, it is recommended that the café/restaurant manager and any senior staff subscribe to the Environment Agency early warning Weather and Tide alert system (email/SMS etc). It is also suggested that consideration be given to displaying live weather warnings heat/wind/flood risk on a television screen within a busy public area of the building 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 relates to HSE legislation, not administered by the Council