

# Planning Committee

Application Address	Town Centre, The Square, Bournemouth, BH2 6EG
Proposal	Use of land for a temporary summer entertainment programme and bar alongside trading stalls within the Bournemouth Town Square pedestrian area, open from 12.7.24 until the 1.9.24
Application Number	7-2024-7052-Q
Applicant	Freeman & Schmidt Limited
Agent	Freeman & Schmidt Limited
Ward and Ward Member(s)	Bournemouth Central Councillor Hazel Allen Councillor Jamie Martin
Report Status	Public
Meeting Date	8 July 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	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

- Planning consent is sought for use of land for a temporary summer entertainment programme and bar alongside trading stalls within the Bournemouth Town Square pedestrian area, open from 12.7.24 until the 1.9.24. Temporary consent has previously been granted for events in the past but that consent was restricted to 70 days in any one year. With other events taking place for longer periods and this event taking place for a longer period to cover the school holidays a separate application is now required.
- The current proposal will have a new theme and include the following: -
  - A bar area dressed with real plants, palm trees and grasses, as well as decor props such as surfboards and driftwood, enclosed by white picket style fencing.
  - A confectionary bus allowing a fun way to present a wide array of pick and mix sweets, laces, fudge, and honeycomb.
  - Two stages will enable workshops and live performances to happen concurrently. The

- programme will inform visitors which stage will host the advertised activity or performance.
- A variety of seating options to cater for both small and larger groups.
- Trading stalls selling food, beverages, summer accessories and art.
- A back of house area to accommodate the toilets, waste and recycling bins, generator, and grey water storage.

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

- 3 The site is located within The Square pedestrian zone. The Square precinct is an award winning public space. The Square is generally more open and wider giving the appearance of an open piazza. Whilst it is generally open there is an external seating area in front of the camera obscura and at various times of the year and for relatively long periods there are events and the area is covered with stalls and other temporary structures.

### **Relevant Planning History:**

- 4 7-2021-7052-P - Use of land for temporary event space, exhibition use, temporary markets and ancillary entertainment facilities for up to 70 days per calendar year (Regulation 3) – Granted, 5 year consent.
- 5 7-2018-7052-O - Use of land for temporary event space, exhibition use, temporary markets and ancillary entertainment facilities for up to 70 days per calendar year (Regulation 3) – Granted, 3 year consent - expired October 2021.
- 6 7-2012-16259-N - Use of land for temporary markets (and ancillary entertainment facilities) up to 70 days per calendar year - Regulation 3 – Granted (3 years temp)
- 7 7-2009-7052-L - Use of land for temporary markets (and ancillary entertainment facilities) up to 70 days per calendar year - Regulation 3 – Granted (3 years temp)

### **Constraints**

- 8 The following constraints have been identified.
  - Old Christchurch Road Conservation Area and Lower Gardens is on the list of Historic Gardens.
  - The gardens have 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 Biodiversity– as the buildings/structures are located on an existing area of hardstanding with no loss of greenspace or impact thereon there is no requirement to offset or consult in this instance. The PPG guidance on Biodiversity net gain gives exemption for de minimis proposals. The guidance indicates that it does not need to be considered where the impact is less than 25 square metres (e.g. 5m by 5m) **of onsite habitat** and where less than 25sqm of habitat is affected. As the site it totally covered with hardstanding very little habitat if any is affected. Also in this case as the portable buildings do not involve development the application is a change of use of the land.
- 14 The Gardens Trust - Statutory Consultee. ....*affects Upper, Central and Lower Pleasure Gardens, and Coy Pond Gardens, an historic designed landscape of national importance which is included by Historic England on the Register of Parks and Gardens of Special Historic Interest at Grade II. We have considered the information provided in support of the application and on the basis of this we confirm we do not wish to comment on the proposals at this stage. We would however emphasise that this does not in any way signify either our approval or disapproval of the proposals.*
- 15 Urban Design Officer – *The proposed structure in the Square is suitable for market stalls and entertainment facilities, although potentially blocking pedestrian pathways. Nonetheless, the proposed markets and events have been a regular feature of Bournemouth town centre, considered to be beneficial for the local economy.*  
*The scale and footprint of the temporary structures currently proposed is comparable to previous approvals.*  
*Given the fact that the two-storey bar would be opened and would be painted in light colours, any potential visual impact on the character and appearance of the area would be reduced*
- 16 Transport Officer – the transport officer has indicated that the site and proposal requires a highway licence as the works are on the public highway.
- 17 Environmental Health Officer – No objection

### Representations

- 18 Site notices were posted in the vicinity of the application site and a press notice published with an expiry date for consultation of 14/6/24.

- 19 3 representations have been received from town centre residents and local businesses expressing concerns including the following comments.

*“the temporary establishment will cause congestion, it will prevent the variety of temporary independent pop up venues, it duplicates services that are provided by surrounding permanent venues. It has adverse impacts on the local environment. Its location will conflict with construction work being undertaken on the new Ivy restaurant. It is of no benefit to the town or the long term economy of the town”*

*“As a resident and business owner in this area, I have significant concerns about the impact these events have on the flow of foot traffic and overall commercial activity.”*

*“This obstruction not only hampers regular trade but also detracts from the shopping experience, discouraging visitors who might otherwise contribute to the local economy. The congestion created by these events results in a significant loss of footfall for businesses, affecting their revenue and sustainability.”*

*“I propose that future events be relocated to Horseshoe Common, a location better suited for handling such gatherings without disrupting the essential retail and commercial flow of the town centre. This would ensure that Bournemouth remains a convenient and attractive destination for shoppers and diners, benefiting the entire community.”*

### **Key Issues**

- 20 The following matters are relevant.

- Impact on the character and appearance of the area and the setting of the Old Christchurch Road Conservation Area
- Impact on vitality and viability of the shopping area
- Impact on neighbouring residents

### **Planning Policy Context**

#### **21 Core Strategy (2012)**

Policy CS7 – Bournemouth Town Centre  
Policy CS18 – Increasing opportunities of cycling and walking  
Policy CS38 – Minimising Pollution  
Policy CS39 – Designated Heritage Assets  
Policy CS40 – Local Heritage Assets (Bobbys)  
Policy CS41 – Quality design

#### **22 Area Action Plan**

Policy D4 – Design Quality  
Policy D6 - Encourages a high quality well designed public realm.  
Policy U7 – Cafes and restaurants  
Policy U8 – Leisure, Culture and Entertainment  
Policy U9 – Evening and night time uses  
Policy T2 – Walking and cycling

#### **23 District Wide Local Plan (2002)**

Policy 5.14 - Prime Shopping Area  
Policy 5.15 - Major Shopping Use  
Policy 5.19 - Core Shopping Area  
Policy 4.4 - Development in a Conservation Area

## 24 **Supplementary Planning Documents:**

Public Realm Strategy: Guiding Principles - SPD  
Town Centre Development Design Guide - SPD  
BCP Parking Standards – SPD

## 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 15 – Conserving and enhancing the natural environment.

Section 16 – Conserving and enhancing the historic 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 and well designed

spaces, supporting tourism, retail and protecting spaces for recreation, walking and general enjoyment. Policies in the District Wide Local Plan support job creation, small businesses.

- 27 On the basis of the above the proposal is considered acceptable in principle and in accordance with policy CS7 of the Core Strategy and policy U8 of the AAP - Leisure, Culture and Entertainment

Impact on character and appearance of the area including the impact on the setting of Old Christchurch Road Conservation Area.

- 28 The Square piazza is an award winning pedestrianised space at the heart of the town. It acts as a meeting point and links the two main shopping areas in Commercial Road and Old Christchurch Road. For large parts of the year it remains open and serves as circulation/meeting space. However, it has always been used for seasonal events and for other functions. As can be seen from the planning history section above various planning consents have been granted over the years. This has now become an established character of the Square as various times of the year. The consents have always been temporary for limited parts of the year. The current application seeks a longer period to cover the school holidays however, it is not considered that the additional period is significant as for most of the year the Square will be free from structures.
- 29 This application is specifically for this summer season and is for a new operator with a different theme from other years. The area is restricted to that shown on the red line plan attached to the report and is less extensive than the winter alpine market. In previous years the use appears to have functioned well and balances the competing demands for the space. The precinct area does become more congested and at times very busy but in a thriving town centre this is expected and is part of its character.
- 30 The proposal includes various stalls, structures and items as set out in section 1 above and shown on the submitted layout plan. These are all moveable and would not necessarily in themselves involve development. It is considered that the low rise items are non-contentious. The larger structures can be seen from and affect the setting of the nearby gardens and from the Conservation Area. When the Square is open and free from events the buildings in Old Christchurch Road, Richmond Hill, Bourne Avenue and Bobbys can be viewed openly. The current proposals will interrupt these views from various viewpoints. There will be a degree of impact on the setting of these heritage assets however, it is considered that the impact will be less than substantial and there are public benefits with the proposal by providing an increased range of catering and retail options within the town centre. Also, similar 2 floor structures have been approved previously and as they are temporary it is not considered that they are harmful to the heritage assets.
- 31 On the basis of the above, it is considered that the proposals are in accordance with planning policy CS39, CS40 and CS41 in respect of design and visual amenity as the harm to the setting is not considered overly significant when considering the positive tourism/retail benefits.

Impact on vitality and viability of the shopping area

- 32 The proposal will add to the retail offer of the town centre. However, the scale of the use does not require a retail impact assessment. Also, the retail policies support the town centre as a location for new development of this type. It is considered that the proposal complements the existing town centre uses and provides more choice for visitors. The proposed uses will be providing similar products to other more established retail uses in the

Town Centre and be in competition. However, a market style operation has been in existence for many years now during parts of the year and within a busy town this type of competition at this scale is considered acceptable and would not conflict with retail policies. The proposal will extend the period when events take place however, this use coincides with the school holidays when the town is at its busiest and when it is more appropriate to have these uses. On the basis of the above, it is considered that the proposals are in accordance with planning policy CS7 which encourages a Town Centre first approach.

#### Impact on amenity

- 33 The proposal is likely to increase activity in the area in this busy area and there are flats above the shops in Bourne Avenue and Richmond Hill. The bar and entertainment areas are likely to create a noisy atmosphere. As mentioned above a similar summer operation has been carried out in previous summers and includes live music events. The Environment Health Officer has not raised any objections and any potential nuisance will be monitored under the Environmental Protection legislation to ensure that no statutory nuisance occurs. Whilst the test for statutory nuisance is a higher threshold it is considered that the impact on amenity in this busy town centre location is acceptable and no different to the many seasonal events that already take place during the year. However, given that there are residential properties nearby a late night operation would not be appropriate and it is considered that the use should not operate beyond 11.00 pm in the evening. 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.

#### Transport Issues

- 34 The transport officer had expressed concerns about the management and layout of the site to ensure that it operates in a safe and efficient manner and doesn't compromise other road and footway users. However, as the site is located on public highway the applicant will require a separate highway events licence. This is required under separate legislation and does not need to be duplicated in the planning consent. However, I have added conditions to ensure that an emergency access route is provided.

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

- 35 As set out above it is considered that the proposal is acceptable in terms of impact. The main issue is the cluttered appearance of the pedestrianised precinct area. However, it is now an established characteristic of the area for certain periods during the year and many towns including historic cities have similar events in their town centres. Whilst it is acknowledged that the proposals will have an impact and some may prefer the area to remain open this needs to be weighed against the benefits of utilising the space for tourism and visitor benefits. Whilst there are other bars and retail outlets in the Town Centre the proposal with entertainment and providing a different experience will add to the variety and choice in the Town Centre. The proposal involves a longer period of time over the year from 70 days to about 100 days. However, this allows more flexibility for other events during the year and for the majority of the time the Square will still be open.
- 36 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. The provision of commercial uses and structures in this location is low rise and the concerns with the impact can be weighed against the clear tourism benefits of the project. Whilst the proposed structures are clearly temporary and utilitarian the proposal will encourage many more people into the town centre which is its

main purpose. Similarly, the impact on heritage assets as set out above is considered to be less than substantial and in paragraph 208 of the NPPF there is scope to afford the opportunity to consider whether identified harm is outweighed by public benefits.

- 37 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**

- 38 **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

#### **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: 1.1250 red line location plan and the submitted proposed layout plan.

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

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

On the 2 September 2024 the temporary use shall cease and the portable buildings and any ancillary structures hereby permitted as shown by the submitted plans shall be removed in their entirety and the land restored to its condition before the development hereby permitted took place.

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. Hours of Use**

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

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

#### **4. Emergency access route**

An emergency vehicle corridor of access not less than 3.7m wide, with a 4 metre vertical clearance for a minimum width of 3 metres, shall be provided and maintained at all times that the markets and entertainment facilities are operating.

Reason: To provide a suitable fire appliance access in the interests of public amenity.



**INFORMATIVE NOTE: Highway Licence**

The applicant is advised that a highway licence must be obtained for the use of the public highway. BCP Council should be consulted to agree on the detailed specification. They can be contacted by email at [highwayenforcement@bcpcouncil.gov.uk](mailto:highwayenforcement@bcpcouncil.gov.uk)

**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.

**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.