

Eastern BCP Planning Committee – 8 July 2024

Addendum Sheet

6a) Land at Lower Gardens, Lower Gardens, Bournemouth, BH2 5AU 7-2024-15898-AM

Temporary use of land as a roller-skating rink including the stationing of stretch tent roof, flooring, fencing, lighting, big screen and mobile bar and catering cabin and toilet.

Consultations

Following the publication of the officer report, some additional and revised information has been received which has been assessed by the relevant consultees. The following summaries have therefore changed:

Flood Management: No objection is raised to the proposed emergency procedure and evacuation policy. Concern remains regarding displaced flood risk.

The Local Highway Authority: Following the receipt of an amended bin location plan and further refuse information, it is considered this could now be acceptable subject to the appropriate condition. Objection remains to the impact on pedestrians.

Environmental Health: Objection withdrawn following the receipt of an amended noise management plan.

Ecologist: Holding objection relating to the impact on protected species is withdrawn following the receipt of acceptable lighting information though a condition is recommended on this issue. However, the application has failed to demonstrate it is BNG exempt or compliant.

Impact on protected species (addendum to paragraphs 46-48)

Following the publication of the officer report, a lighting map has been submitted and assessed by the LPA Ecologist. It is considered acceptable in relation to lux levels and directionality, but the lighting map did not detail sufficiently precise information regarding the colour temperature. It is considered that this could be addressed by a condition on colour temperature and that subject to this condition, the impact on protected species would be acceptable.

Biodiversity Net Gain (addendum to paragraph 59)

Following the publication of the officer report, the applicant has indicated that they would propose meeting the requirements of BNG through tree planting in the Lower Gardens. This has not been formally submitted in the form of a sufficiently detailed Biodiversity Statement. Furthermore, from discussions with the LPA Ecologist, this suggestion would not meet the requirements of BNG under the Environment Act (2021). The applicant furthermore has not demonstrated exemption to BNG.

Impact on residential amenity (addendum to paragraphs 63-64)

A revised noise management plan has been received and reviewed by the Environmental Health Officer who has stated that they have no significant concerns with the proposal and are satisfied with this revised noise management plan. The applicant is advised by the Environmental Health Officer that onsite monitoring should be carried out regularly to assess the noise impact at the nearest residential properties, if the music noise is deemed too loud, immediate corrective action to reduce the levels should be taken.

Given the acceptable noise management plan it is considered that residential amenity can be adequately safeguarded by a condition on compliance with the revised noise management plan and a condition on the approved opening hours. It is understood that should an issue relating to noise arise, this could be addressed by the Environmental Health department under other legislation.

Impact on highways/ footways (addendum to paragraph 69-72)

A revised bin location plan has been received, in line with suggestions made by the LHA Officer, with an indication of collection timings. The LHA consider that these arrangements are acceptable, subject to a suitable condition. It is therefore no longer considered that refuse arrangements would have a harmful impact on the operation of the bus network.

Additional information has been received to demonstrate the impact on the footway, particularly during the build and break down of the proposal. From the form of annotated build plan drawings, received, the LHA has stated that the suggested servicing and delivery arrangements once in operation are clearer and more reasonable to consider subject to a suitably worded condition.

However, the LHA continues to object to the narrowing of the central path and the mixing of vehicles with pedestrians. Whilst banksmen are proposed to limit

conflict, some risk remains given the strong pedestrian flows past the site. The retention of just 2.5m is considered by the LHA to be insufficient in this location without an alternative route being offered to reduce the potential for crush conflict between pedestrian flows.

Overall, it is considered that the refuse arrangements can be made acceptable by condition and there is accordingly no longer considered to be a harmful impact on the operation of the bus network.

Further information has now been provided in order to assess the impact on pedestrians within the Lower Gardens. It is acknowledged there would be some impact on pedestrians, most notably during the build periods Monday 15th- Thursday 18th July and the break down day on Tuesday 27th August. Given that this impact will be time limited, there will still be access through the central pathway, although somewhat restricted in width, and that other routes through the Lower Gardens remain, this is not considered sufficiently harmful as to warrant a reason for refusal of the application.

Impact on flooding (additional comment to this section)

A revised Events Management Plan has been received which has been reviewed by the Emergency Planning and Resilience Officer and the LLFA. This includes further information on emergency evacuation including in relation to adverse weather and flash flooding. These consultees are satisfied with the revised Events Management Plan in relation to emergency evacuation and if the application were recommended for approval, a condition would be recommended for compliance with the revised Events Management Plan.

It is also noted that some text has been added regarding displacement of flood risk. The applicant argues that flooding will not be displaced as the rink and food truck are 'raised above the ground'. No heights are provided in the Events Management Plan but flood depths from surface water are mapped to be up to 90cm in a 100-year event not considering influence from other flood sources. The LLFA has stated that it seems likely that this is deeper than their proposed elevations so there would be displacement. The LLFA accordingly does not agree with the applicant's conclusion of no flood displacement.

It is noted that given that location of the proposal, the displaced surface water flood risk would not impact on dwellings. However, the LLFA officer states that if a large flood were to occur whilst the rink is in place, there is a chance that flooding could be deeper in other parts of the park because of it, potentially affecting some of the small commercial uses there also. Given that a proper analysis of flood depths has not been provided with the application, it is difficult to assess the full degree of impact.

Planning Balance/Conclusion (addendum to paragraph 83)

It is considered that although there will be some impact on pedestrians in the Lower Gardens, most notably in relation to the central path during the build and break down periods, this will be limited harm for a short period of time and is outweighed by the public benefits of the scheme outlined.

However, the applicant fails to demonstrate an exemption from BNG. In addition, the application site is at high risk of flooding and the application fails to demonstrate it would not result in unacceptable displaced flooding. The proposal is accordingly considered contrary to Policies 3.28 of the District Wide Local Plan (2002), CS4, CS30 and CS41 of the Core Strategy (2012),

Recommendation

REFUSE for the following reasons

- 1. Insufficient information on Biodiversity Net Gain**
- 2. Failure to demonstrate acceptable impact on flooding**

Contrary to Schedule 7A of the Town and Country Planning Act 1990, Policies 3.28, CS4, CS41, and the NPPF (2023).

The applicant has failed to demonstrate that the de minimis exemption to Biodiversity Net Gain would apply, resulting in insufficient information for the Local Planning Authority to assess that the proposal complies with the Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

Furthermore, the proposals fail to demonstrate that it would not result in unacceptable displaced flood risk to the surrounding area due to its location in flood zone 3 where the risk of flooding is high.

The proposal is overall contrary to Policies 3.28, CS4, CS41, and the NPPF (2023).

6c Pavilion Theatre, Westover Road, Bournemouth, BH1 2BU

APP NO 7-2024-1570-BH

Add the following Condition

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 approved plans. Any external lighting shall be directional to only illuminate the enclosed area hereby permitted 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 in the Gardens all to accord 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) and in accordance with National Planning Policy Framework (2023) paragraph 180 "Planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity"

Modify condition 4 as follows

Layout and buildings

Prior to the use re-commencing in 2025 and notwithstanding the details shown on the submitted drawings, details of the design, cladding materials and layout of all structures and ancillary equipment shall be agreed in writing with the Council. The agreed details shall be implemented and maintained throughout the period of the consent layout, design and cladding materials.

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).