



Planning Committee

Application Address	East Cliff Beach, Undercliff Drive, Bournemouth, BH1 3BZ
Proposal	Temporary installation for the Arts by the Sea Festival which will be in place from Monday 23rd September to Monday 30th September 2024.
Application Number	7-2024-5156-U
Applicant	BCP Council
Agent	BCP Council
Ward and Ward Member(s)	Bournemouth Central Councillor Hazel Allen Councillor Jamie Martin
Report Status	Public
Meeting Date	29 August 2024
Summary of Recommendation	Grant in accordance with the details set out below for the reasons as set out in the report.
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. The proposal is for a temporary installation for the Arts by the Sea Festival which will be in place from Monday 23 September to Monday 30th September 2024. It is in the form of a metal framed honeypot. It will measure 5.4m high with a radius of 6m and it will sit on a hexagonal 7m wide platform on the beach. As can be seen the display is only for a short period and the intention is to set it on fire on the last day as a finale.
2. The structure has been designed to be structurally safe. As is standard practice for events on the beach the applicant has prepared a risk assessment to ensure that appropriate measures are in place during the display. The schedule for the event is set out below.

- 3 Tuesday 24th September 2024 - Sculpture is loaded at the Pyrite Creative workshop and the crew drive to site.

Wednesday 25th September Pyrite Crew will arrive at site for installation

Thursday 26th September Any final bit of dressing to be completed. Management to include all stewarding and overnight security as well as provision of suitable fire extinguishers/ bins/ sand wheelchairs etc.

Sunday 29th September Pyrite crew will arrive on site at midday. Pallets to be loaded into the sculpture by Pyrite. The setting and igniting of the fire are the responsibility of Two Tigers with Pyrite crew assisting where required. After the burn the fire should be soaked down to ensure it does not burn all night. Cordon to remain in place throughout the night.

Monday 30th September AM Skip to be delivered to site to begin the clear up.

- 4 See image below.



Description of Site and Surroundings

- 5 The location on the beach is about 500m east of the Pier midway between two groins and midway between the Russel Coates and the East Cliff zigzag. This part of the beach is relatively open and there are no other events or pop ups.

Relevant Planning History:

- 6 Nothing specific to this part of the beach. Nearby to the east the El Murrino Beach Restaurant was approved for the summer period and the Who Dare Gym was approved but not implemented.

Constraints

- 7 The following constraints have been identified.
- Flood zone 3;
 - The beach has an open space allocation and falls within the remit of policy CS31 of the Core Strategy and Policy D7 of the Area Action Plan.

Public Sector Equalities Duty

- 8 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

- 9 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.
- 10 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.
- 11 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

- 12 Highway Officer – no objection.
- 13 Biodiversity – 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. The Biodiversity Officer has confirmed that the proposal is “exempt from BNG, as no vegetation on this part of beach”.

- 14 Flood and Coastal Management Team - The Flood Risk Assessment is acceptable for this event. I'd only note that the installation period 25-30 Sept is just after the equinox spring tides so the beach may alter further up the profile than normal just prior to installation as those tide levels are a bit higher than average; something to be aware of in case the beach is not as expected when you go to install. The installation period is actually occurring as tides move into neaps.
- 15 Environment Agency – No objection

Representations

- 16 Site notices were posted in the vicinity of the application site with an expiry date for consultation of 31/7/24.
- 17 No representations have been received from the general public.

Key Issues

- 18 The following matters are relevant.
- Impact on character and appearance of the area
 - Impact on residential amenity/living conditions
 - Impact on Open space
 - Flood Risk
 - Biodiversity

Planning Policy Context

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

CS1:	NPPF and Sustainable Development
CS6:	Delivering Sustainable Communities
CS7:	Bournemouth Town Centre
CS18:	Increasing Opportunities for Cycling and Walking
CS29:	Protecting Tourism and Cultural Facilities
CS30:	Green Infrastructure
CS31:	Recreation, Play and Sports
CS38:	Minimising Pollution
CS39:	Heritage assets
CS41:	Quality Design

20 **Supplementary Planning Documents:**

Public Realm Strategy: Guiding Principles – SPD

21 **Area Action Plan**

Policy D4:	Design Quality
Policy D7:	Improved Public Space

22 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.

23 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

- 24 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.
- 25 On the basis of the above the proposal is considered generally acceptable in principle and in accordance with policies to support tourism and culture and policy U8 of the AAP - Leisure, Culture and Entertainment

Impact on character and appearance of the area

- 26 This is a key issue as the proposed installation will clearly be a noticeable feature within the otherwise open sandy beach. At present there are various Lifeguard Stations dotted along the beach but this will be much larger. In scale and prominence it will probably be similar to the bouncy castle/inflatable slide that has been located on the west cliff beach in the past. Also last year a large glazed portal of similar scale was erected for the festival closer to Bournemouth Pier.
- 27 However, it will only be in position for a relatively short period and at a time when the beach is busy with visitors. In the summer period entertainment and visitor attractions are an expected and commonplace happening within the busy parts of the town centre and tourism areas. It will attract large crowds hopefully especially for the finale. However, this would be no different to the firework display on Friday evening during the summer.
- 28 On the basis of the above, it is considered that the proposals are acceptable and comply with planning policies policy U8 of the AAP and CS41 of the Core Strategy in respect of design including the design of spaces and visual amenity when considering the positive tourism benefits.

Impact on amenity

- 29 The proposal is likely to increase activity in the area however, in this busy area and given the location which is not close to residential property there is unlikely to be any residential amenity concerns. The nearest residential properties are an acceptable distance away and they would not be directly affected by noise and disturbance in this location. 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.

Impact on Open space

- 30 The loss of open space was raised as an issue in respect of the previous applications for pop up proposals on the beach. This was because when those decking's were in place during the summer and the premises were trading the areas were only available to the patrons. However, in this case this is not a permanent loss and any loss of open space is only for a very short period.

- 31 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. Policy CS31 deals with this matter and suggests that open space shouldn't be lost *"except where the benefits arising from development outweigh the loss of the space"*. As set out above, the space will not be permanently lost. Further, beach users would benefit from this art display which is for public benefit. In any event in 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.
- 32 On the basis of the above, the proposal is considered to be in accordance with policy CS31 in so far as loss of open space.

Impact on the coastal engineering and flood risk

- 33 The application site is located in flood zone 3. The proposal would be classed as a 'Water Compatible' use (NPPF Annex 3) (outdoor sports and recreation) and on this basis would not require the submission of a Flood Risk Sequential Test to determine alternative sites. The NPPF in paragraph 174 states – *"Applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote 59"*. There is some conjecture about whether the structure is a building although as it is clearly temporary and are easily moveable it is not considered that they need to follow the sequential test. However, a Flood Risk Assessment is required. It is also noted that buildings for restaurants and cafes are potentially similar to the art installation, as persons will be visiting for short periods of time and are classified as a less vulnerable use. Such uses are considered appropriate development in flood zone 3a.
- 34 The applicant has submitted a flood risk assessment and measures have been highlighted to deal with any emergency evacuation.
- 35 The Council's engineers have been consulted and have indicated that the Applicant, would as part of the licence agreement, have to meet the standard requirements as per the agreement at other beach sites where there is concern with any attachment and potential damage to the sea wall ect.
- 36 The Environment Agency have also confirmed they have no objection. On the basis of the above, the proposal would be compliant with policy CS4 of the Bournemouth Core Strategy document.

Biodiversity

- 37 As set out above the Biodiversity Officer does not object in principle to this proposal as no vegetation is concerned. See comments in paragraph 13 above.

Summary

- 38 As set out above it is considered that for this short period the proposal is acceptable in terms of design and impact. It contributes towards tourism in a similar manner to the airshow and fireworks and there are no significant amenity concerns.

Planning Balance / Conclusion

- 39 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 tourism offer and its appearance at present does not downgrade the seafront for this short period.
- 40 The current officer recommendation for the Art Installation is consistent with the previous recommendation for similar summer pop ups elsewhere on the beach and promenade. 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** with the following conditions;

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 scale sit location plan and drawing numbers 01, 02, 03, 04

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

2. Temporary permission expiring

On or before the 1 October 2024 the use and structure including (including decking and supporting structures), containers, fencing and any other temporary structures hereby permitted, as shown by the submitted plans and elevations, hereby permitted shall cease and be removed in its entirety and the land restored to its condition before the development hereby permitted took place (as part of the open beach).

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. Flood risk management and emergency evacuation plan

The flood risk management plan submitted to the Council and as amended shall be adopted in full and prior to the use commencing a Flood Emergency Evacuation Plan shall be prepared in consultation with the Environment Agency and the Council Flood Management Team and this shall be followed 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).

Informative Note:

The applicant is advised that as per the standing guidance, it is the owners responsibility to clear any damage that may arise to their structures as part of storms, and that if they do fix any part to the seawall (See Condition 6: Fixings to Seawall above) that they are liable for repairs in the event of any damage (during installation, operation, removal or through storm damage from this fixing).

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 or without modification) may be necessary.

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. Planning reference 7-2024-5156-U.

Notes.

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