

Planning Committee



Application Address	Avon Beach Mudeford Christchurch BH23 4AN
Proposal	Variation of condition 5 of planning application 8/23/0813/FUL To change opening hours to the saunas so they shall not operate outside the hours of 06.30hrs to 21.00hrs between 1st September to 30th June and 06.30hrs – 22.30hrs between 1st July and 31st August.
Application Number	8/24/0478/CONDR
Applicant	The Saltwater Sauna Ltd
Agent	Mr Chris Miell MRTPI
Ward and Ward Member(s)	Mudeford, Stanpit & West Highcliffe Cllr Lesley Dedman Cllr Paul Hilliard
Report status	Public
Meeting date	26 September 2024
Summary of Recommendation	Grant in accordance with the details set out below
Reason for Referral to Planning Committee	Over 20 letters of objection have been received from neighbours within a 1-mile radius of the application site.
Case Officer	Melanie Smith
Is the proposal EIA development	No

Description of Proposal

1. Planning permission was granted for the demolition of 6 beach huts and the construction of a saltwater sauna and external shower on the 7th February 2024.
2. Condition 5 of the approval restricted the opening hours to: 06.30hrs to 17.00hrs between 1st September to 31st March, 06.30hrs – 19.30hrs between

1st April to 30th June and 06.30hrs – 11.30hrs and 17.30hrs – 22.30hrs between 1st July and 31st August.

3. This planning application proposes to vary the existing permission pursuant to section 73 of The Town and Country Planning Act 1990, to extend the opening hours to; 06.30hrs to 21.00hrs between 1st September to 30th June and 06.30hrs – 22.30hrs between 1st July and 31st August.

Description of Site and Surroundings

4. The application site forms a section of the promenade along Avon Beach and is currently occupied by 6 beach huts. The site falls within the Mudeford Quay Conservation Area and the mature trees which form a distinctive backdrop are protected by virtue of their location within the Conservation Area.
5. Beach huts are a common feature of this locality and along many parts of the BCP coastline. The promenade which runs along Avon Beach, sits at a low level, behind which is an embankment. At the top of the embankment is a tree lined public footpath and the Avon Run Road public car park. Beyond this is the residential area of Friars Cliff. To the south-west of the application site is The Noisy Lobster restaurant which includes outdoor seating. There are also public toilets, the Avon beach shop and a coffee shop hut on the promenade.
6. Whilst the promenade is publicly accessible, it is not a registered public right of way on the Definitive Map. BCP Council is the landowner of the promenade hence the applicant has served notice of this planning application on the Council.

Relevant Planning History

7. 8/17/1748/FUL - To raise the middle section of Avon Beach Promenade by 900mm over approximately 250m to improve flood and coastal erosion risk protection by joining the new retaining structure into existing raised defence's at either end of the promenade. No change to its present mixed public usage. New surfacing and two bench seating areas – granted 19th October 2017.
8. 8/21/0346/FUL - Part retrospective application for (i) the retention of beach huts no.s 63-99, and (ii) proposed forward extension of beach huts 23 to 62 – refused 6th October 2021.
9. 8/21/1040/FUL - Proposed forward extension of beach huts no's 23 to 62 – granted 18th February 2022.
10. 8/21/1068/FUL - Retrospective application for the retention of beach huts no.s 63 to 99 – granted 18th February 2022.
11. 8/23/0813/FUL – demolition of 6 beach huts and the erection of a saltwater sauna and external shower – granted 7th February 2024.

Constraints

12. With respect to any buildings or other land in a Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area – section 72 - Planning (Listed Buildings and Conservation Areas) Act 1990.
 - Mudeford Quay Conservation Area - the site falls within this conservation area and therefore has to be determined against the statutory requirement with respect to any buildings or other land in a Conservation Area, whereby special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area – section 72 - Planning (Listed Buildings and Conservation Areas) Act 1990
 - Current Flood Zone 2 and future flood zone 3a - the site lies within an area of current flood risk as defined by the Environment Agency and also lies within an area of future flood risk defined by flood risk 3a of the Strategic Flood Risk Assessment.
 - Coastal Area (Policy ENV9) - Development in the coastal zone

Public Sector Equalities Duty

13. 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

14. 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 and enhancing biodiversity.
15. 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.

Consultations

16.

BCP Environmental Health

The proposed opening hours are not deemed to be unreasonable considering the impact to nearby residents from the use of the sauna will be minimal. It is understood that the saunas are powered by electric, eliminating impacts from smoke/fumes which can be present with wood burning stoves. Furthermore, it is unlikely that noise from people talking whilst using the saunas will cause disturbance to the nearest residential properties, due to the attenuation of noise from the structure itself and distance to the nearest receptors and capacity restrictions of users in the sauna. Therefore, this department has no grounds to object to the proposals.

Any noise from people on the beach could not necessarily be attributed to the use of the Sauna and there is a Public Space Protection Order in place along the whole coastline in the BCP conurbation to ensure people can use and enjoy public spaces, safe from anti-social behaviour by imposing conditions or restrictions on people using the area.

BCP Conservation/Heritage

No comments received – no need for consult as no alterations proposed to buildings

Christchurch Town Council

None received

BCP Destination & Culture

None received

BCP highways

No highway objections

Representations

17. 24 representations objecting and 1 representation making comments has been received making the following comments;

- The proposed opening hours are considerably more than originally proposed
- Over commercialisations and noise in the area which was a peaceful spot
- Increase in hours will risk anti-social behaviour
- Potential increased noise and pedestrian traffic

Comment;

1. The previous operational hours were so local residents were protected from potential noise and disturbance.

Key Issue(s)

18. The key issue(s) involved with this proposal are:
 - The impact upon character and appearance of the Mudeford Quay Conservation Area (Heritage Asset)
 - The impact upon residential amenities
 - The impact on highways
19. These issues will be considered along with other matters relevant to this proposal below.

Policy Context

20. Christchurch and East Dorset Local Plan Policies (2014)

KS1 Presumption in favour of sustainable development

KS2 Settlement Hierarchy

KS11 Transport and Development

HE1 Valuing and Conserving our Historic Environment

HE2 Design of new development

HE3 Landscape Quality

ME6 Flood Management, Mitigation and Defence

PC6 Tourism

21. Christchurch Borough Council Local Plan (2001) – saved policies

BE4 Development in Conservation Areas

BE 16 Views and Vistas

ENV3 Pollution and existing development

ENV 9 Development in the Coastal Zone

22. Supplementary Planning Documents

Mudeford Quay Conservation Area Appraisal and Management Plan (Adopted May 2008)

Christchurch Borough Wide Character Assessment 2003

23. **National Planning Policy Framework 2024 (“NPPF”/”Framework”)**

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 8 – promoting healthy communities

Section 12 – requiring good design

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

Section 15 – Conserving and enhancing the natural environment

Section 16 – conserving and enhancing the natural environment

The Government has issued a revised draft NPPF however it is still under consultation and therefore should be given limited weight. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.

Planning Assessment

24. **Impact on character and appearance of Heritage Asset (Mudford Quay Conservation Area) and coastal setting**

25. The site lies within the designated Mudford Quay Conservation Area. The site is located close to a commercialised area of the beachfront with a large open car park, promenade and modern buildings close by, which do not contribute to the historic character of the Conservation Area. The approved saunas have been designed to imitate the appearance of 5 beach huts incorporating pitched roofs and following a similar width to the existing huts which is considered to continue the rhythm of huts along the promenade.

26. In commenting on the previously approved planning application for the saunas, the Conservation Officer raised no objections to the proposals subject to agreement of details including materials.
27. No change is proposed to the siting, size or design of the saunas. They are located within an already popular location on Avon Beach close to other commercial businesses. It is therefore considered that there will be no increased harm arising as a result of the proposed increased opening hours and the character and appearance of the Mudeford Quay Conservation Area will be preserved in accordance with Policies BE4 and HE1 of the Core Strategy (2014).
28. **Impact on residential amenities**
29. The application site is located around 50 metres distant from the nearest residential dwelling along Avon Run Road, although the proposed sauna building will not be easily visible from any close by residential properties due to its location on the promenade at the bottom of the embankment.
30. In determining the planning approval for the saunas, it was considered that the proposed use as two saunas was not considered likely to result in a substantial increase in noise disturbance and given the level of background noise from a busy section of this public beach, the provision of such a facility was not considered to result in harm to nearby residents in terms of noise or disturbance. However, in order to minimise potential nuisance late into the evenings it was considered appropriate to impose a restriction on the hours of opening.
31. It is noted that as a result of the public consultation process, a number of objections have been received from local residents with regards to the potential for noise and anti-social behaviour from the increased opening hours, which are proposed to be open from 6:30am until 9pm between 1st September to 30th June and until 10:30pm between 1st July and 31st August. The proposed opening hours are looking to extend into the evening hours (to 9pm) between 1st September to the end of June and continue operating throughout the day in July and August where previously they had proposed to open in the morning and evening separately (6.30am – 11.30am and 5.30pm – 10.30pm). To clarify, the proposed increase in hours amounts to; an increase in 4 hours at the end of the day between 1st September to 31st March, an increase of 1.5 hours at the end of the day between 1st April – 30th June and an increase of 6 hours in the middle of the day allowing the saunas to continue to operate through the day between 1st July – 31st August.
32. The application site is located within a busier section of the beach with the Noisy Lobster restaurant located close by which is open until 11pm 7 days a week. Furthermore, the proposed use is not considered to be a use which would naturally result in high levels of noise and the nearest residential property lies around 50 metres to the north, behind the coastal slopes. Given the nature of the proposed use, it is not considered that the proposed

increase in hours would generate a material increase in noise which would be harmful to local residents.

33. Upon consultation, the Environmental Health Officer has not considered the proposed opening hours to be unreasonable and that it is unlikely that noise from people talking whilst using the saunas will cause disturbance due to the attenuation of noise from the structure itself and distance to neighbouring properties. There will also be restrictions in how many people can use the saunas at any one time (8 people per sauna).
34. It is therefore considered that, taking into consideration the siting of the proposed saunas in relation to nearby residential properties and the nature of the use along with existing levels of noise along this section of Avon Beach, any increase in noise arising from the proposed increased hours is not considered to result in material harm to residential amenity in accordance with Policy ENV3.
35. **Impact on highways**
36. In considering the proposals for the saunas and following consultation with the Local Highway Authority, it was considered that the saunas would not result in an increase in demand for parking as users would normally be from existing beach users. There are also two public car parks within close proximity to the application site. The proposed increase in opening hours in the evening, when beach-user numbers have dropped, is not considered to result in any increase in pressure for parking which could not be accommodated within these car parks. The Local Highway Authority have raised no objection to the proposals. The proposed development is therefore considered to comply with Policy KS12.

Planning Balance/Conclusion

37. The proposals will support a new small scale business providing jobs and bringing income into the area. The proposed increase in opening hours will increase the opportunity for visitors and local residents to use the facility, supporting tourism and visitor spend in the local area. The proposals are not considered to result in harm to the character and appearance of the Mudeford Quay Conservation Area and there is considered to be sufficient parking to accommodate the needs of this small-scale business.

Recommendation

Grant, subject to the following:

Conditions

1. The development hereby permitted shall be begun before the date 3 years from the date of the original permission.

Reason: This condition is required by Section 73 of the Town and Country Planning Act 1990 because the time limit for implementation cannot be altered.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

3D visuals: 5730-01, 5730-02, 5730-03, 5730-04, 5730-05
site plan rev C - dated 23/10/23
block plan rev D - dated 23/10/23
proposed elevations rev H - dated 23/10/23
proposed floor plan rev D - dated 01/11/23
proposed elevations rev A - dated 18/10/23

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

3. The development hereby permitted shall be constructed entirely of the materials specified within the materials schedule, submitted on the 30/01/24, unless otherwise agreed in writing by the Local Planning Authority.

Reason: This is required to ensure the satisfactory visual relationship of the new development to the existing

4. Prior to the commencement of development, a construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The plan must include details of the areas for storage and mixing of materials during construction and details of any restrictions to access along the promenade. Development shall be carried out in accordance with the approved details.

Reason: In the interests of tree protection and highway safety.

5. The saunas shall not operate outside the hours of; 06.30hrs to 21.00hrs between 1st September to 30th June and 06.30hrs – 22.30hrs between 1st July and 31st August.

Reason: In the interests of residential amenity

6. Notwithstanding the provisions of Schedule 2, Part 2, Class C of the Town and Country Planning (General Permitted Development) Order 1995 or any subsequent re-enactment thereof, the external finish of the development hereby approved shall not be changed from the agreed palette without express planning permission first being obtained.

Reason: In the interests of preserving the character of the locality and coastal setting of the application site.

7. The development shall be carried out in accordance with the submitted Arboricultural Impact and Method Statement from GTree Ltd ref: GH2387 rev 01 dated 11/11/23. The tree protection measures shall be installed before any equipment, materials or machinery are brought onto the site for the

purposes of the development. The tree protection shall be retained until the development is completed and nothing shall be placed within the fencing, nor shall any ground levels be altered or excavations made without the prior written consent of the Local Planning Authority.

Reason: In the interests of tree protection.

8. In the event that new services and soakaways are required to service the approved development, full plans and particulars showing the final siting of the services and soakaways shall be submitted to the Local Planning Authority for written approval prior to commencement of these works on site. The development shall be carried out in accordance with the approved details.

Reason: To ensure that protected trees, their rooting environments are afforded adequate physical protection during construction.

Background Documents:

Case File – ref 8/24/0478/CONDR

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.