

Planning Committee

Application Address	The Noisy Lobster restaurant, Avon Beach, Mudeford Christchurch, BH23 4AN
Proposal	Alterations to existing ground floor entrance. Extension to and partial demolition of ground floor, with enlargement of first floor terrace above. Enlargement of front dormers. Removal of side window. Internal re configurations throughout.
Application Number	8/24/0596/FUL
Applicant	Noisy Lobster Ltd
Agent	Studio Arkell
Ward and Ward Member(s)	Mudeford, Stanpit and West Highcliffe Councillor Lesley Dedman Councillor Paul Hilliard
Report Status	Public
Meeting Date	19 December 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 are the land owner
Case Officer	Charlotte Haines
Is the proposal EIA Development?	No

Description of Proposal

1. This application follows a grant of Planning Permission (ref. 8/23/0603/FUL) in October 2023 for alterations to the existing ground floor entrance, an extension to and partial demolition of ground floor, with enlargement of first floor terrace above. In addition, the enlargement of front dormers and the removal of a side window were also approved. These works are also being re-applied for under this revised full planning application. In addition, this application seeks the following two amendments: -
 - Omit canopy entrance (retain existing floor space at ground floor)
 - Replace and square off dormer at first floor

Description of Site and Surroundings

2. The site is an existing restaurant located on the beachfront at Mudeford. The application site is occupied by a detached 2-storey building which is located on the beachfront at Avon Beach, directly adjacent the Avon Beach public car park and located within the Mudeford Quay Conservation Area. Directly to the front of the café is a pedestrian promenade which links to the beach. Currently the building is operated as a café/restaurant at over two storeys.
3. It is the only two storey building visible from the promenade and it is sited within a prominent beachfront position. The building has benefitted from a number of other extensions over time, including the provision of a kitchen to the east, a raised terrace to the front of the toilet block, a fish and chip takeaway within the existing shop, and a detached timber hut and decking for the sale of hot and cold food and drinks.
4. Further along the sea front to the east is a long length of beach huts. There is a public footpath directly to the rear of the café which is located on a raised bank and which provides panoramic views across to the Isle of Wight in between the belt of Holm Oak trees which lie directly to the rear of the site. Directly to the rear of the site is an additional sunken public car park, and beyond this are the residential properties of Avon Run Road which are sited around 100 metres to the west and north.

Relevant Planning History:

5. The site has the following history:

8/23/0603/FUL	The Noisy Lobster Avon Beach Mudeford Christchurch BH23 4AN	Alterations to existing ground floor entrance. Extension to and partial demolition of ground floor, with enlargement of first floor terrace above. Enlargement of front dormers. Removal of side window. Internal re configurations throughout.	Granted	19/10/23
8/20/0224/NMA	Noisy Lobster Rest Avon Beach Mudeford Christchurch BH23 4AN	Non material amendment to planning application: 8/19/1296/FUL to amend glazing layout on South Elevation.	Granted	29/06/22
8/19/1296/FUL	Avon Beach Cafe Mudeford Christchurch BH23 4AN	To form terrace at first floor level.	Granted	24/02/20
8/18/1123/CON DR	Avon Beach Cafe, Mudeford, Christchurch, Dorset, BH23 4AN	Variation of condition 4 of Application No. 8/17/3034/FUL to allow natural ventilation to the first floor	Granted	23/08/18
8/17/3034/FUL	Avon Beach Cafe, Mudeford,	Construct first floor extension along with	Granted	21/02/18

	Christchurch, Dorset, BH23 4AN	internal alterations to ground and first floors		
8/16/0622/FUL	Avon Beach Cafe, Mudford, Christchurch, Dorset, BH23 4AN	Erection of first floor extension to existing cafe & restaurant (Revised scheme following withdrawal of 8/15/0568)	Refused	21/09/16
8/15/0568	Avon Beach Cafe, Avon Beach (Mudford Quay Conservation Area)	Erection of first floor extension to existing cafe to include external balcony	Withdrawn	27/01/16

Constraints

6. The following constraints have been identified:

- The site falls partly within present day Flood Zone 2 of the Strategic Flood Risk assessment (medium probability of flooding) and part within the future Flood Zone 3a (high probability). Part of the building lies outside of the area of flood risk.
- The site lies within the Mudford Quay Conservation Area. 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.

Public Sector Equalities Duty

7. 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

8. 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.
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 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

11. **Environment Agency** No response received
12. **BCP Trees & Landscaping** No objections.
13. **BCP Environmental Health** No comments.
14. **Christchurch Town Council** Objects to the proposal due to its detrimental impact on neighbouring amenities and the public highway.
15. **BCP Rights of Way** No response received
16. **BCP Highways - Minor Dev** No objections.
17. **BCP Destination & Culture** No response received

Representations

18. One letter of objection has been received raising a number of concerns as summarised below: -
 - Over development of the area as a result of a number of permissions that have been granted;
 - Additional developments are eroding the natural character of the area;
 - Further development being allowed would impact on carparking, local residents and the natural beauty of the area.

Key Issue(s)

21. The key issue(s) involved with this proposal are:
 - Principle of the development
 - Impact on heritage asset (Conservation Area) and the character of the area
 - Noise and Impact to Neighbours' Living Conditions
 - Impact upon Flood Risk
 - Highway & Parking Matters
 - Impact on Trees
22. These issues will be considered along with other matters relevant to this proposal below.

Policy context

23. 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 Christchurch and East Dorset Local Plan and saved policies of the Christchurch Local Plan 2001.

The following policies are of particular relevance in this case:

KS1	Presumption in favour of sustainable development
KS2	Settlement Hierarchy
KS11	Transport and Development
KS12	Parking Provision
HE1	Valuing and Conserving our Historic Environment
HE2	Design of new development
HE3	Landscape Quality
ME6	Flood Management, Mitigation and Defence
BE 4	New Development in Conservation Area

ENV 3	Pollution and Existing Development
ENV 9	Development in the Coastal Zone
BE 16	Views and Vistas
PC6	Tourism

24. National Planning Policy Framework (“NPPF” / “Framework”)

Including in particular the following:

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.”*

Planning Assessment

Principle of development:

25. The site lies within the urban area as identified in the adopted Local Plan. The settlement hierarchy in Policy KS2 of the Local Plan identifies Christchurch as a Main Settlement which will provide the major focus for community, cultural, leisure, retail, utility, employment and residential development. Paragraph 16.18 of the Local Plan notes that tourism is a key part of the local economy which employs 1,700 people and is a growing sector which plays an important role in creating jobs and sustaining the local economy. Policy PC6 on Tourism seeks to attract visitors to the area and encourage investment through the protection of the beaches, river front and Christchurch Harbour and supporting appropriate sustainable tourist related development.
26. Saved Policy ENV9 permits development within the identified Coastal Area subject to the criteria in the Policy. Paragraph 3.22 of the 2001 plan advises that the Council recognises the importance of its coastline in terms of landscape, nature conservation, leisure and recreational value and the wider economic impact.
27. The application site is an existing restaurant facility in a location important to tourism, jobs and investment in the area. The proposal seeks minor changes to the previously approved scheme which included changes that would result in a modest loss of covers. There are 253 pre-existing covers inside and out, which was reduced to 235 in the approved scheme. In approving the previous application, this reduction in covers was acknowledged. However, it was noted the alterations and extension proposed would contribute to the improvement of the restaurant and subsequently, it would help secure the longevity and existing economic benefit of the restaurant in accordance with the local plan and NPPF.
28. The current application seeks to amend this previously approved scheme with a couple of minor changes now proposed. These changes would seek to further contribute to the improvement of the restaurant.
29. Therefore, it is considered that the amended proposal subject of this application is acceptable in principle, complying with KS2, subject to material consideration and site-specific impact which are

addressed further below under specific headings. The planning balance is addressed in the conclusion.

Impact on heritage asset (Conservation Area) and the character of the area:

30. The site lies within the designated Mudeford Quay Conservation Area and as such; Section 72 (1) of the Act 1990 requires that Local Planning Authorities in determining planning application affecting Conservation Area pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.
31. Paragraph 201 of the NPPF requires Local Planning Authorities to identify and assess the particular significance of any Heritage asset that may be affected by the proposal (including any development affecting the setting of a Heritage asset). Paragraph 206 and 207 of the NPPF requires local authorities to assess whether there is substantial harm, less than substantial harm or no harm to the heritage asset. There are no nearby listed buildings or other non-designated heritage assets in the vicinity of the site which will be affected by the proposals and it is solely the Conservation Area which is potentially affected.
32. Policy HE1 of the Core Strategy states that assets are an irreplaceable resource and will be conserved and where appropriate enhanced for their historic significance and importance locally to the wider social, cultural and economic environment.
33. With regards to the significance of the heritage asset (Conservation Area), the Mudeford Quay Conservation Area Appraisal (CAA) identifies the mature trees along Avon Run Road above the promenade as Important Trees. No important buildings, landmarks, views or spaces are identified in the CAA in the vicinity of the site. The document concludes that this part of the CA has no historic buildings and very little evidence of historic development that relates directly to Mudeford or Mudeford Quay (p.40) and proposes the area for removal from the CA subject to otherwise protecting the trees (via a TPO). Nonetheless this was evidently not done.
34. The Mudeford Quay Conservation Area Appraisal states the 'lane' part of Mudeford that leads to Avon Beach is strongly defined by trees and hedges and these enclose and narrow the streetscape in a very positive way.
35. The application seeks minor changes to the previously approved scheme through this new full planning application. The October 2023 approved scheme involved alterations to the existing ground floor entrance, as well as extension, reconfiguration and partial demolition of the ground floor, with enlargement of the first floor terrace above. These were considered to be limited in scale and subservient to the host building with materials to match the existing building. The minor changes now proposed include removal of the inset front entrance on the southern side with the retention of the internal floor space of that part of the restaurant now as it currently exists. The second change involves squaring off the dormer on the north east front corner to simplify the roof form, which would also be of a modest nature with matching materials that would be sympathetic to the host building. The applicant states that the roof is fire damaged from a previous fire and needs replacing. The change to this part of the roof would enlarge it slightly and provide more of a squared off appearance, but it would otherwise be in keeping with the design of the building and the approved additions.
36. Therefore, when viewed from public vantage point, the proposal would appear subservient to the host building and setting of the Conservation Area. As noted below, the scheme is compatible with the retention of the nearby mature trees which is sole aspect of significance identified in the Conservation Area Appraisal in the vicinity of the site.
37. Whilst not objecting specifically to the changes proposed in the application, a neighbouring resident has objected to the cumulative effect of repeated applications for development and alterations to the premises. However, each application is considered on its own merits and given the modest nature of the changes proposed, it is not considered that the proposed alterations to the building would give rise to any harmful impacts on the character of the area.

38. Therefore, the proposed alterations subject of this application would continue to ensure that the significance of the conservation area is preserved. The proposed minor changes to the building would not harm the character and appearance of the Conservation Area and therefore, the proposal is in accordance with local plan Policies HE1 and HE2 and the relevant paras of the NPPF.

Noise and Impact to Neighbours' Living Conditions:

39. The application building is around 90m from the nearest residential properties in Avon Run Road which are elevated above the site. It was therefore considered that the previously approved scheme would not result in any significant overlooking or overbearing impact.
40. The proposal seeks minor changes to the previously approved scheme which included the modest loss of covers. In approving the previous application, this reduction in covers was acknowledged. Environmental Health were consulted on the application but did not comment. However, it is noted that they were consulted on the previously approved scheme where they raised no objection and did not recommend the use of conditions.
41. The proposed minor changes to the approved scheme would not result in any overbearing impact or overlooking nor would it lead to any noise and disturbance to neighbouring properties. There is likely to be a slight increase in capacity over the approved scheme but still comparable to the existing use.
42. The scheme is considered to comply with the test in Policy HE2 to be compatible with or improve its surroundings in its relationship to nearby properties including minimising general disturbance to amenity.

Impact upon Flood Risk:

43. The existing building falls partly within present day Flood Zone 2 of the Strategic Flood Risk assessment (medium probability of flooding) and part within the future Flood Zone 3a (high probability). Part of the building lies outside of the area of flood risk. The development type is classified as 'less vulnerable' in Table 2 of the NPPF Technical Guidance and is therefore considered to be appropriate development within flood zones 2 and 3a.
44. The Environmental Agency (EA) have been consulted with respect to the proposal although they did not comment on the application. However, it is noted that they did comment on the previously approved application of which the current proposal seeks to amend.
45. The EA advised that the consultation of the previously approved application did not fall within a category to which they need to be consulted. The EA concluded that the flood risk standing advice should be applied by the Council - this involves the raising of the finished floor level of any proposal.
46. On this basis, a condition was attached to the previous planning permission requiring existing floor levels to be retained. Given this current application incorporates the previously approved changes relating to the existing ground floor, it is considered necessary to attach this same condition.
47. The proposed minor changes that are being proposed under this application remain modest in scale and would continue to make minor changes to its footprint when compared to the approved scheme. As such, it is considered that the development will not introduce additional assets at risk into the flood risk area, nor would it increase the risk of flooding elsewhere. As such the development complies with Policy ME6.

Highway & Parking Matters:

48. Policy KS12 requires adequate parking provision to serve the needs of the proposed development. The site adjoins the Avon Beach car park at the seafront (99 spaces) and directly above the site are a further 221 spaces in the Avon Run Road car park.

49. The Council's Highways engineer have raised no objections to the minor changes that are being proposed under this application.
50. However, it is noted that the proposal would be contained within the application site boundary and the footprint would not be brought forward or altered. As such, it is noted that the existing situation with regard to the right of way is not altered.
51. Acceptable access and parking facilities will be provided and the scheme is considered to comply with the tests in Policies KS11 & 12 to provide;
- a) safe access onto the existing transport network;
 - b) allow safe movement of development related trips on the immediate network; and
 - c) adequate vehicle and cycle parking facilities to serve the needs of the proposed development.

Impact on Trees:

52. The proposal is within proximity of protected trees and BCP trees within a conservation area. As such, the Council's arboricultural officer has been consulted who notes that the proposal will not bring the built form closer to these trees or involve any works within their root protection area (RPA). They have also seen the Proposed Site Plan drawing: ARK.HNY.311 Rev 1, dated 05/09/24 and notes the area designated for the storing and mixing of materials. They raise no object subject to condition which ensures the development is carried out in accordance with the submitted Proposed Site Plan.

Planning Balance / Conclusion

53. The proposal at the Noisy Lobster on Avon Beach is considered to be acceptable in principle. It is noted the alterations and extension proposed would contribute to the improvement of the restaurant and subsequently, it would help secure the longevity and significant existing economic benefit of the restaurant in accordance with the local plan and NPPF. There are also social benefits from the provision of the facility to beach visitors.
54. The proposal seeks minor changes to the previously approved scheme. These changes are considered to be acceptable and do not harm the visual amenities of the site or wider street scene as such they would have a neutral impact on the Conservation Area. The changes would also not result in any adverse impact on residential amenities and has not generated objections from the Highways Authority in respect of highway safety or the capacity of the network. Furthermore, the proposed changes would not adversely affect protected trees. The environmental impacts are therefore acceptable.
55. The proposal is therefore considered to represent sustainable development, complying with the Development Plan as a whole and in accordance with the NPPF.

Recommendation

- 56. GRANT permission for the reasons as set out in this report subject to the following conditions**

Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990.

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

Block and Location Plan – Drawing Number ARK.HAY.300 Rev 1 received on 06/09/2024
Block and Location Plan – Drawing Number ARK.HAY.312 Rev 1 received on 06/09/2024
Proposed Site Plan – Drawing Number ARK.HAY.311 Rev 1 received on 06/09/2024
Proposed Ground Floor Plan – Drawing Number ARK.HAY.306 Rev 1 received on 06/09/2024
Proposed First Floor Plan Drawing Number ARK.HAY.307 Rev 1 received on 06/09/2024
Proposed Roof Plan Drawing Number ARK.HAY.308 Rev 1 received on 06/09/2024
Proposed Front and Side Elevations Drawing Number ARK.HAY.309 Rev 1 received on 06/09/2024
Proposed Rear and Side Elevations Drawing Number ARK.HAY.310 Rev 1 received on 06/09/2024

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

3. The materials to be used in the external surfaces of the proposed development shall be as specified in the approved application unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of design and amenity.

4. The ground floor finished floor level of the proposed development shall be set no lower than the existing floor level of the restaurant.

Reason: To minimise the risk of flooding with the building, which is located in Flood Risk Zone 2/3.

5. The development hereby approved shall be carried out in accordance with the tree protection measures as shown on the approved Proposed Site Plan drawing no. ARK.HNY.311 Rev 1, dated 05/09/24 and no building materials shall be stored elsewhere within the site during the course of the construction of the development.

Reason: To ensure the protected trees on site are given adequate protection before and during the works on site in accordance with Policies HE2 and HE3 of the Local Plan.

Informatives

n/a

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.