

Planning Committee

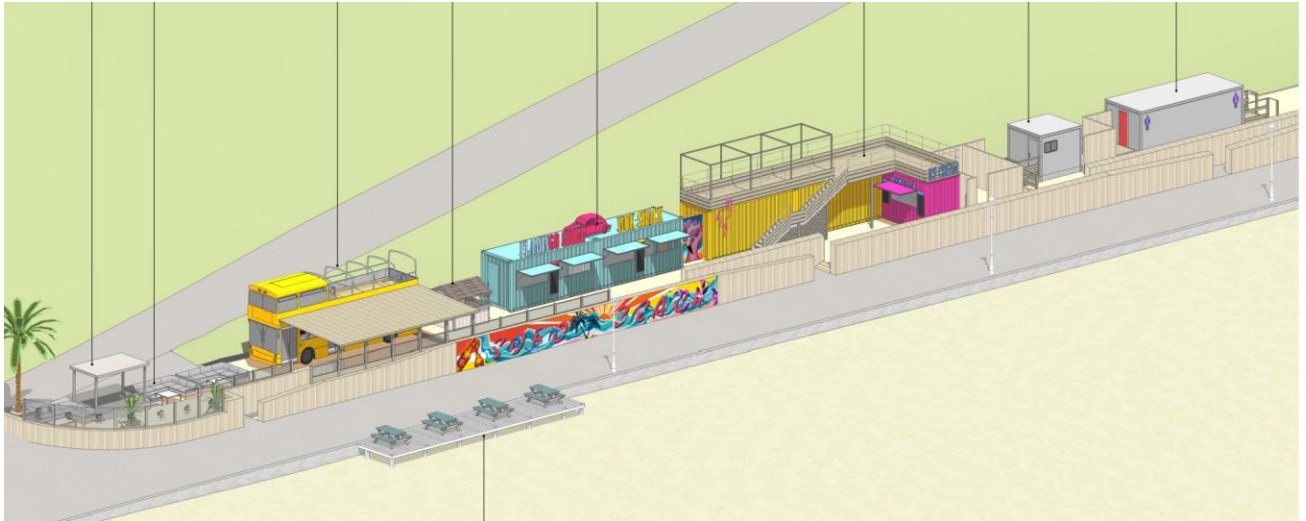
Application Address	Bistro on Beach site, Southbourne Promenade, Bournemouth BH6 4BE
Proposal	Retention of 3no. shipping containers, comprising hot food kitchen, serveries, ice-cream kiosk and storage spaces; staircase and 'rooftop' customer seating; 1no. open-top (yellow) double decker bus with attached open sided pergola over customer seating; 1 timber shack comprising a drinks Bar; 2no. portable modular buildings to public toilets; timber fencing, ramps and decking; 1no. pink painted Volkswagen Beetle vehicle on the roof of one container. Stretch tent across part of the site (September to May). Temporary use of site for the sale and consumption of food and drink (revised description)
Application Number	7-2023-1696-L
Applicant	K Slater
Agent	Mrs Clare Spiller
Ward	East Southbourne & Tuckton Councillor Bernadette Nanovo Councillor Judy Richardson
Report Status	Public
Meeting Date	19 December 2024
Recommendation	GRANT
Reason for Referral to Planning Committee	Referred by the Director of Planning and Transport because BCP Council is the landowner and in view of the significant public interest with more that 20 letters of objection and support.
Case Officer	Steve Davies
Is the proposal EIA Development?	No

Description of Development

- 1 Planning permission is sought for the Retention of 3 no. shipping containers, comprising hot food kitchen, serveries, ice-cream kiosk and storage spaces; staircase and 'rooftop' customer seating; 1no. open-top (yellow) double decker bus with attached open sided pergola over customer seating; 1 timber shack comprising a drinks Bar; 2 no. portable modular buildings to public toilets; timber fencing, ramps and decking; 1no. pink painted Volkswagen Beetle

vehicle on the roof of one container. Stretch tent across part of the site (September to May). Temporary use of site for the sale and consumption of food and drink (revised description).

- 2 The use has already been implemented and therefore the application falls under section 73A of the Planning Act as a retrospective application. The proposal is also for temporary permission for the period up to October 2026. The hours of operation are proposed from 08.00 hours until 23.00 7 days a week. The development is mainly on the site of the former Bistro on the beach but also includes a deck on the sand measuring 13m x 2.7m. The general arrangement of buildings is shown in the image below. In the winter most of the open parts of the site are covered with temporary tented and marque coverings.



- 3 Apart from serving food and drink the site has music and disco events throughout the year. Events will be limited to one weekly recurring event and an additional monthly event using music above background level from 1st April to 30th September. There will be a reduced frequency of events out of season, with a maximum of 15 events with amplified music in total from 1st October to 31st March.

Description of Site and Surroundings

- 4 Seafront and beach location. In front of existing long-standing Bistro on the Beach restaurant/café which has now been demolished.

Relevant Planning Applications and Appeals:

- 5 The following more recent applications:
- Current application for “Retention of painted mural on front boundary treatment and installation of other ancillary fascia signs”. Advertisement applications are dealt with under delegated powers.
 - 2021-1696-K: Prior approval procedure - Demolition of buildings - Permitted Development. Granted: 4 November 2021
 - 2021-1696-J: Proposed construction of a new restaurant, public conveniences and kiosk at ground floor level, with 17 overnight lodges spread over two floors above with pedestrian access bridges and other associated landscaping. Alterations to Warren Edge Car including a new laundry store, cycle shelter, car park access control and electrical substation. cycle stands and beach showers on the promenade- Regulation 3. Granted: 28 July 2022

- 2007-1696-F: Alterations and single storey extension to restaurant/cafe and formation of kiosk for the off sales of hot food. Granted: 29 June 2007

Constraints

- 6 The following constraints have been identified.
- Vulnerable coastal location although Flood zone 1 and Flood Zone 2 for the decking;
 - The beach and promenade has an open space allocation and falls within the remit of policy CS31.

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 this report regard has been had to the Human Rights Act 1998, the Human Rights Convention and relevant related issues of proportionality.

Consultations

- 11 Council Tourism Team – *Bistro on the Beach lies to the East of Boscombe Pier in Southbourne. The proposal positively contributes to the tourism offer along the seafront and it does not interrupt any sea views. The Seafront Visitor Survey (2023) supports the public views around investment in food & drink offers. Existing and new development along the promenade will form an active ‘street’ frontage and elements along the space will have a regular, ordered appearance and layout. Destination are supportive of the operation, which has proved very successful and publicly well received.*
- 12 BCP Coastal Engineers (Flood and Coastal Erosion Risk Management) – No objection to drainage issues but recommended that flood risk and emergency evacuation measures are in place.

- 13 Environmental Health Officer – The EHO is satisfied with the information they have provided to date, detailing the control measures in place to mitigate music, noise and minimise the impact on local residents. The full EHO comments are set out below: -

In October 2023, this department provided a formal response on this application recommending a noise impact assessment should be carried out to assess the noise impact from music played at the premises on nearest sensitive receptors. We also advised that a noise management plan should be devised detailing the control measures currently in place and additional measures identified following the results of the noise assessment to ensure music noise is managed effectively.

In June 2024 following this department receiving complaints in relation to noise disturbance from music events held at this premises, a holding objection was sent to the Planning department based on concerns we had with the management and proposed frequency of events through the summer months... Environmental Health met with the operators to discuss the ongoing concerns of residents and agree a way forward. A noise impact assessment was carried out on 22nd July 2024 by Sustainable Acoustics (Report no; 23-0125-1 R01) to assess the existing background noise levels and noise impact from music played at the premises on nearby residents. The report concluded that good operational music levels would be possible, whilst causing no more than a LOAEL – Lowest Observed Adverse Effect level at the nearest residential properties, with mitigation measures in place. Unfortunately, there were some inconsistencies with this report, due to the weather conditions during the measurement period and some of the recommended mitigation measures not necessarily being relevant to the premises.

However, following additional noise measurements carried out by us and further correspondence with the consultant it was evident the operators were required to mitigate the music noise by approximately 5dB to achieve the target level set by the consultant. Therefore, alterations were made by the operators including (but not exhaustive);

- *Removing sub woofers to reduce the bass noise emitted*
- *Installation of 14mm glass panels surrounding the stage area*
- *Installation of a wooden structure housing DJs and equipment (open side directed towards the sea) covered with high density noise absorbing acoustic barrier*
- *Speakers were relocated, installed below the height of the barrier, mounted off the floor and directed towards the sea*
- *A monitoring schedule was set up to monitor the noise during amplified live and recorded music events at various points at the nearest residential properties*
- *Engaged in the services of a sound engineer to install a compressor system to reduce the noise produced in the lower frequencies*
- *Reducing the frequency of events from 3 per week to once a week through the summer months (May to September)*
- *Reducing the duration live and recorded amplified music is played to 4hrs*

The noise consultant advised that the level of attenuation due to the reflective glass on the seaside is estimated to be around 5dB. It was also recommended to install a small line array system to direct the sound to a smaller area of the venue and minimise the noise impact, but this solution was dismissed by the applicant.

Between February and August this year we have visited and carried out our own monitoring on several occasions to determine whether the noise from the amplified music was unreasonable at the complainant's property. Whilst earlier in the year the music was perceptible at the complainant's property, it was evident from monitoring carried out in

August and following the implementation of additional mitigation measures that noise from the music played during the events held at this premises did not amount to a statutory nuisance at the complainant's property. Occasionally music noise may be perceptible at the nearest residential properties for short bursts of time as the music is amplified in open air and difficult to wholly attenuate without mass, such as a building to enclose the source completely. How perceptible the music noise is at the residential properties is heavily dependent on the weather conditions (wind direction and speed, precipitation), sea conditions, road traffic noise and busyness of the area with beach users, all of which are beyond direct control of the operators. With regards to the National Planning Policy Framework and based on the current mitigation measures in place, occasionally depending on the external conditions the noise exposure may cross into 'lowest observed adverse effect' level in which small changes in behaviour and attitude occur. However, consideration has been given to mitigating and minimising those effects with the above actions.

An updated response was sent to the planning department on 13th August 2024... advising based on the actions already taken and proposed submission of a noise management plan and mapping conditions were recommended.

Since August we have received five complaints on the following dates, 1st, 8th, 14th and 15th September and 27th October 2024... although the operators have advised there were no events with live or amplified music on 8th and 15th September 2024. As I understand there have been a further two events between September and December with amplified music that have not resulted in complaints made to this department.

Following additional noise mapping carried out by Noise Assessments Ltd and the submission of a Noise Management plan (Project no. NALPRO070824.01a, dated 5th November 2024) we are satisfied that reasonable steps have been implemented to manage and control noise to ensure that live and amplified music played at the premises will not adversely impact the neighbouring residents. The aim of the National Policy Statement for England - Noise Policy Statement for England (NPSE) has been met to mitigate and reduce to a minimum potential adverse impact on health and quality of life from noise generated at the premises. We would therefore recommend the conditions to the following effect are attached to any approval granted;

1. The premises shall only operate between the hours of 08.00 and 22.00hrs.
2. Noise must be managed in accordance with the Noise Management Plan at all times, any changes to the noise management plan must be agreed in writing by the Planning Authority.

- 14 Highway Officer – No objection but suggest condition regarding waste and cycle parking provision.
- 15 Biodiversity Officer – No objection subject to a condition about lighting.
- 16 Natural England - It is noted that “the application is adjacent to Bournemouth Cliffs Site of Nature Conservation Interest and that there may be some small impacts from shading. The advice of the Councils Biodiversity Officer should be sought. Natural England has no objection to the application”
- 17 Police Architectural Liaison Officer – no objection but makes the following points – “With a car park and easy access from the promenades, the location has had numerous problems with antisocial behaviour. The site is still on a hotspot patrol area by the Police because of its history. The previous restaurant attracted regular burglaries and damage, and the bus that is

there now was broken into twice in rapid succession when it first arrived. Flat roofs with a view of the sea attract not only tourists but also antisocial behaviour. Roofs need to be appropriate to prevent someone breaking through and down into the unit below. Marine containers are historically easy targets for criminals, especially if there is limited passing surveillance as here. It would be sensible to have an integrated CCTV and alarm system installed, as well as quite substantial target hardening measures on any doors, windows or hatches.”

- 18 Urban Design Officer - The Officer supports the use and does not object to the mural. *“However, I do not support the development in its current form due in particular to the extensive use of tall, solid timber hoarding which dominates the appearance of the site and detracts from the character of the seafront.”*

Representations

- 19 Site notices were posted in the vicinity of the application site with an expiry date for consultation of 19th October 2023.
- 20 A significant number of representations have been received. Many have been received from local residents concerned with mainly noise and nuisance from the events that take place and the general liveliness of the site. They also cite other concerns relating to ecology, parking, visual intrusion and concerns with travelling and sustainability. The online system for registering representations shows that the following has been received.
- 1238 Non-objection-support comments: many of these are not immediately local to the site and are most likely patrons of the venue.
 - 54 Objections
 - 119 Comments: many of those responding with the comment button actually comment that they support the project.
 - Both Ward Councillors have written in expressing concern with the proposal particularly on nuisance grounds
- 21 Many of the residents objecting to the scheme have used the services of a planning consultant and the conclusions of his objection letter are as follows (summary).
1. There is clear noise nuisance caused by the proposal which offers no ways in which this can be minimised which is a requirement of CS38 and paragraph 8 of the NPPF. The proposal is in effect for an open-air nightclub use within a peaceful residential area with zero opportunity for noise attenuation measures. There is no Management Plan provided which is surely fundamental and needs a period of open public consultation for it to be properly scrutinised.
 2. There are clear grounds for refusal with regards to the impact upon highway safety and parking pressures. No Travel Plan or Travel Assessment has been provided by the applicant and given the distance that customers have been proven to travel and the amount of individual private car journeys that this use creates, then again, the Travel Assessment needs to be submitted and subject to a period of open public consultation.
 3. Core Strategy policies CS7 and CS18 and the adopted Seafront Strategy clearly set out that the proposed use should be located in the central zone of Bournemouth. This site is

not readily accessible by public transport and creates a huge carbon footprint for each event which hasn't been quantified; it a stark contradiction to the Climate Emergency that BCP has called and its desire to be carbon neutral as an organisation by 2030.

4. There is a clear lack of infrastructure and facilities to cope with these events with men urinating behind beach huts and general use overspilling into the beach and promenade. There is evidence from objectors that the events are actively driving people away from the area and such alcohol consumption, dancing and DJ music is not conducive to creating a family friendly environment to which the Seafront Strategy identifies this part of the beach as being designated.
 5. The proposed buildings are ramshackle in nature and garish and temporary. They detract visually from this part of the beachfront. The proposal is contrary to Core Strategy policy CS41. NPPF paragraphs 131 to 135 are relevant re good design and 'being a key aspect of sustainable development'. Paragraph 135 states that planning decisions should ensure that all proposals 'are sympathetic to local character'.
 6. The ecological impacts and SNCI harm have not been assessed appropriately by the applicant and require full consideration by the local planning authority. The proposal is considered contrary to CS34 and CS35.
- 22 As Members will be aware the number of representations is not a determining factor in planning decisions. What is important is the validity of points that are made. Many of these issues are discussed below. However, it is clear that the current use is raising some amenity issues with local residents. Conversely the venue is extremely popular to some beach visitors from the Southbourne area and further afield.

Key Issues

- 23 The main considerations involved with this application are:
- Principle of the use on and loss of open space
 - Impact on character and appearance of the area;
 - Impact on amenity;
 - Impact on the coastal engineering and flood risk;
 - Biodiversity.
- 24 These points will be discussed as well as other material considerations below.

Planning Policy Context

25 Bournemouth Local Plan Core Strategy (2012)

CS1: NPPF and Sustainable Development
CS4: Surface Water Flooding
CS6: Delivering Sustainable Communities
CS18: Increasing Opportunities for Cycling and Walking
CS29: Protecting Tourism and Cultural Facilities
CS30: Green Infrastructure
CS31: Recreation, Play and Sports
CS38: Minimising Pollution
CS41: Quality Design

26 Bournemouth District Wide Local Plan (2002)

Policy 3.28: Flooding

27 Supplementary Planning Documents:

Public Realm Strategy: Guiding Principles – SPD

28 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 investment and tourism enhancement particularly in the areas between and close to the piers.

The seafront east of Boscombe Pier is categorised as follows: -

The promenade running east of Boscombe Pier features a high concentration of beach huts and is hugely popular with families and locals. It is characterised by three connected landscapes of cliff-top heath, cliff face geology and beach. There are four main visitor hub areas along this stretch clustered around the overnight short stay Bournemouth Beach Lodges at Manor Steps; the 1930's cliff lift at Fisherman's Walk, the soon to be regenerated Bistro on the Beach facility at Southbourne and the Hengistbury Head Visitor Centre.

Whilst the area generally is identified as a coastal nature park it does identify this site as a visitor hub as follows: -

Bistro on the Beach site regeneration introducing a new year-round eco-destination offer incorporating restaurant, kiosk, toilets and overnight rental Beach Lodges

The Seafront Visitor Survey (2023) supports the public views around investment in food and drink offers.

29 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 14 – Meeting the challenge of climate change, flooding and coastal change;

Section 15 – Conserving and enhancing the natural environment.

Emerging Local Plan

- 30 The draft BCP Local Plan was submitted to the Secretary of State on 27 June 2024 for examination. The Local Plan examination is expected to take around 12 months. If approved by the Inspectors, the Local Plan will replace the current Local Plans around the middle of 2025. Many of the policies which would be relevant to this proposal are similar to current policies but brought up to date to reflect the NPPF. Due to the stage the Plan has reached, the majority of policies are attracting very limited weight at this time.

Planning Assessment

Principle of development

- 31 The general principles of the core strategy seek to ensure sustainable communities through good quality development, support for tourism and protecting spaces for recreation, walking and general enjoyment.
- 32 Policy CS31 (Recreation, Play and Sports) states that planning permission will be refused for development that results in the loss of public and private open space. This is a key policy for the protection of public open space. However, it is considered that the proposal would not result in the permanent loss of a significant amount open space. Only a small deck (on the beach) is proposed here, and this is not considered to be a significant area in terms of the entire beach area. This can be balanced against the benefits of having a facility that people can enjoy as another key issue is the economy and the tourism function.
- 33 On the basis of the above, the proposal is considered to be in general accordance with policy CS31 in so far as loss of open space. Whilst the proposal has an impact on the open space it is considered that the temporary loss in the summer period of the space is not significant and would not result in the proposal being contrary to this policy. As set out above the Council has reviewed its Corporate Seafront Strategy. Whilst this is not a planning policy it does set out a requirement that proposals should “sympathetically enhance the public amenity and open space”. It is considered that the fact this is a long established café/restaurant location and as the deck is modest the open space policy would not be compromised. The policy does indicate that the focus for the more intensive tourism event should be close and between the Piers. However, The Bistro on the Beach site has always been used as a tourism spot and the planning permission for the new restaurant and beach lodges will create a more intensive tourist hot spot compared with the quieter areas further east and west.

- 34 The proposal would support tourism as set out in policy CS29 (Protecting Tourism and Cultural Facilities). Food and beverage outlets have always been located on the beach front together with the shopping areas in the retail centres offering a different and complementary offering.
- 35 On the basis of the above the proposal is considered acceptable in principle and is also in accordance with policy CS6 (Delivering Sustainable Communities) by maintaining a balance in development opportunities whilst protecting key facilities. The Emerging BCP Local Plan has similar policies to promote sustainable development, support the economy and protect amenity.

Impact on character and appearance of the area

- 36 The main issue is the appearance of this temporary venue. Planning permission has been granted for a replacement building but in the interim this temporary use has been established. The applicant is seeking permission to continue the use until the end of the summer 2026. For this reason, the structures are not of a permanent design and have a temporary appearance. The structures are a mixture of portable hut type buildings, shipping containers, an old bus with a shelter attached, a stage for outdoor performance and a terraced seating area above the shipping containers.
- 37 However, this proposal differs from the other recent approvals on the beach as there are more structures and during the winter period the use is to continue albeit with some tented coverings to provide more inside use or weather protection. Although this part of the beach is less developed than the areas closer to the piers it has always been to location of a well-used busy café. Also planning permission has been granted for a sizable replacement permanent building that will be on three floors. It includes a restaurant and beach hut lodges. For this reason it is considered that this part of the beach has a more intensive character which is different to the quieter and less developed areas towards Hengistbury Head, and it is reasonable to allow a more intensive operation as proposed whilst allowing the parts of the beach either side to remain quieter.
- 38 One of the main concerns has been the provision of container type structures as these will have a completely different appearance to the smart new building proposed for the future. However, beach architecture often includes lightweight temporary structures such as beach huts and boat sheds that have some charm as they appear windswept. The different structures proposed especially with the old bus and car on the roof of the container are an eclectic mixture of features. Overall, it has the appearance of something akin to a funfair. At present the paintwork is becoming tired. However, the applicant proposes to repaint next season and with this fresher appearance it is considered that for a temporary period the proposal would be acceptable. However, a condition to require repainting for the two more years would not be unreasonable.
- 39 The applicant has also made an effort to provide some screening with the timber cladding on the edge of the promenade which helps screen some of the structures. This is partly covered with artwork which is subject to a separate application under the advertisement regulations. However, the Urban Design Officer considers that this looks harsh in comparison to the railings and stone walls that were previously in situ. The Council has actually installed this feature, and it could be argued to fall within permitted development allowances. Whilst it is agreed that its appearance is somewhat of an oddity it is considered that some painting or colour washing would help soften its appearance and be seen as part of the “Sobo” identity. A condition will be added to agree an appropriate scheme.

- 40 As the decking on the beach and the other structures are by their nature temporary and described as such by the applicant, it is considered appropriate to issue a temporary permission. Although the appearance of the structures are considered acceptable at the moment, they could become untidy and unsightly overtime. This is a particularly prominent and important location, and it is considered appropriate to issue a temporary permission for only two summers. This would allow a degree of control over the proposed development, should the appearance of the decking and other structures deteriorate. Also, this could change with winter storms in the future. It also gives the Council the opportunity to review their beach strategy in the future.
- 41 On the basis of the above, subject to the planning conditions as outlined, the proposal is considered to accord with planning policy CS41 in respect of design and visual amenity.

Impact on amenity

- 42 The proposal is likely to increase activity in the area with more people coming and going from the site and creating a potentially livelier 'party' atmosphere especially during the summer. Many of the beach operations have alfresco dining so this is commonplace. This location will already be relatively busy during the summer period with a throng from other beach users, children playing and those listening to music. During the winter it will also be relatively busy given the historic café use and the proximity to the car park. Therefore, it is considered that on this part of the beach, there is some scope for a more intensive restaurant/ bar use.
- 43 However, the main concerns raised relate to the "events" that are held at the premises with music, live entertainment and discos on the beach. There are several blocks of flats just at the top of the cliff and they have indicated that they have suffered from nuisance in the past. At times during the past summers the noise from the events has been intrusive. However, the site has been monitored during the summer by the Environmental Health Officer. See the full comment by the EHO above in the Consultees section. Following discussions with the Environmental Health Officer, applicant has reduced noise levels and has submitted a noise management plan. The plan was developed following a noise impact assessment that was carried out and contains the following noise control measures:
- a) The permitted operating hours of the site will be strictly adhered to and effectively communicated to all site staff and patrons;
 - b) Maintenance of a complaints form for any complaints received directly to the business;
 - c) Security staff in attendance for any events that go over background level volume to monitor the behaviour of guests and ensure they follow the noise policy; persistent noise offenders may be barred from site;
 - d) The speaker system within the site shall be set up to ensure that the sound generated by any amplified music is directed away from the sensitive receptors towards the sea.
 - e) Maintain suppressor set level, with no changes permitted;
 - f) Regular monitoring throughout events is essential to ensure that external conditions are accounted for (eg wind direction) as these can have an effect on noise travel;
 - g) Music levels will be reduced to background level immediately as any events end;
 - h) Notices will be displayed on external doors asking customers to leave the premises in a quiet and orderly fashion to show respect to local neighbours;
 - i) Events will be limited to one weekly recurring event and an additional monthly event using music above background level from 1st April to 30th September. There will be a reduced frequency of events out of season, with a maximum of 15 events with amplified music in total from 1st October to 31st March;
 - j) Using reputable DJ's who are aware of the constraints and sensitivity of the environment;
 - k) Restricting events to 4 hours maximum with music elevated above background level;

- l) No Subwoofers shall be installed to the speaker system;
- m) Directing the speakers to the sea away from the residential properties;
- n) Installed 14mm glass barriers surrounding sensitive areas of the venue to attenuate the noise breakout. Speakers are installed below the height of the barrier to ensure the sound is directed into the venue;
- o) Installed a wooden structure to act as a stage housing the DJs and equipment (open side directed towards the sea). With back and sides covered with high density noise absorbing acoustic barrier;
- p) Engaged in the services of CPS sound engineers to set up their speaker system, with the installation of a two-stage audio compressor to compress the audio signal level at a preset threshold ratio of 4:1. Reducing the dynamic range of the signal and lessen the ferocity of the program material (effectively smoothing out the thumping of the signals). This threshold becomes active before the DJ can max out the available volume on the mixing deck. There is also a peak limiter section, providing a limit at a preset threshold which is set to become active when the DJ reaches +6dB on the mixer. The limiter heavily compresses the signal and reduces the output gain to maintain the preset level. The staff do not have knowledge of the audio systems and are not permitted to make changes without CPS. Tools are required to access any of the compressor limiter systems. This is not a noise limiter and does not limit the noise at source to a measurable level, this type of system would not work in this environment as the existing noise sources in the area would be picked up on any limiter installed, negating the effect;
- q) Regular monitoring is carried out when live amplified music is played at multiple locations outside nearby residential properties and along the promenade. Corrective action is taken if the music noise is deemed too loud, i.e. if lyrics of songs and continuous bass beat from the music is audible outside residential properties it is too loud;
- r) Dialogue with some residents in the area has already been established;
- s) Events advertised on the website with start and finish times.

44 It is clear from the application submission details that there will be some noise associated with the proposal. As it is an open air venue it is not possible to fully insulate and mitigate noise so that no noise can be heard above background levels. There will be a change from when there were no events taking place and from when all of the activities were inside the building. Some residents may expect not to hear any noise however, on the other hand as this is a busy seaside resort a commercial operation on the seafront may expect to operate without unduly stringent conditions. It is a known fact that noise travels on water to a more significant degree, so this consideration needs to be factored. But in this case, because occasionally low frequency music noise is perceptible to local residents doesn't mean it's enough to amount to a statutory nuisance or even have an adverse impact on amenity. Important considerations also are the variable factors of the surrounding environment/ weather/ sea conditions, distance between the source and residents and frequency/ duration/ time of music played. One factor that is relevant is that under the permitted development regulations it is possible that an outdoor event such as a disco on the beach could take place for 28 days in any one year. Although subject to Environmental Health nuisance legislation this would only be able to control statutory nuisance whereas the restrictive conditions proposed in the recommendation and now in the noise management plan seek to control impact on residential amenity which is a higher bar in terms of nuisance protection. It is important that the noise management plan is strictly observed and therefore it is proposed to add a condition to have a trial period for the noise management plan to ensure that it operates effectively over the rest of the winter and next summer.

45 The Environmental Health Officer is supportive of the proposal with the noise management plan in place. Therefore, it is considered that the proposal wouldn't cause demonstrable harm

to amenity and would accord with planning policies CS38 and CS41 of the Bournemouth Core Strategy.

Impact on the coastal engineering and flood risk

- 46 The application site is largely located in flood zone 1 where flooding is not normally an issue. However, the decking on the beach lies within flood zone 2. This element of the scheme would fall within the minor development category and the Council would refer to the Environment Agency standing advice. The proposal, to facilitate an outdoor seating area, could 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 but a Flood Risk Assessment is required. 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 structures themselves are buildings although as they are clearly temporary and are easily moveable it is not considered that they need to follow the sequential test. However, a Flood Risk Assessment (FRA) is required. It is also noted that buildings for restaurants and cafes are classified as a less vulnerable use are also appropriate development in flood zones.
- 47 Previous similar proposals along the beach front have been considered acceptable having regard to issues of flood risk and the approach has been the same for all the beach pop ups in that provided a flood risk plan is in place the proposal is acceptable. The Flood Risk Assessment also includes an emergency evacuation plan which sets out protocols should a storm occur.
- 48 The Councils engineers have been consulted in respect of impact on coastal infrastructure and do not object as the development accords with the criteria required under the lease for beach structures to control potential damage to the sea wall. Importantly there are no fixings to the sea wall allowed.
- 49 On the basis of the above, the proposal is considered acceptable and compliant with general flooding criteria set out by the Environment Agency and policy CS4 of the Bournemouth Core Strategy document.

Biodiversity

- 50 Statutory Biodiversity Net Gain does not apply in this instance as the application was submitted prior to the requirement.
- 51 Further, as set out above the Biodiversity Officer does not object to these facilities but a condition about lighting could be included to ensure that foraging bats are not disturbed by any bright lighting. Accordingly, the proposal is considered to be acceptable and compliant with policy CS30.

Highway Safety

- 52 Bins, servicing and cycle parking can be accommodated for the site. The bin collection and servicing is organised the same as all of the other promenade venues to ensure regular collections and deliveries outside of peak times. The venue is popular to those cycling and the approval for the redevelopment included a requirement to provide Sheffield stands. A similar condition has been recommended for the current proposal to help manage cycle

parking at the venue. It will require negotiations with the Council as they control the promenade, but a condition will ensure that appropriate facilities are provided. On this basis, the proposal would be compliant with policies CS18, CS38 and CS41.

Summary

- 53 As set out above it is considered that the proposal is acceptable on the basis that;
- The design is acceptable on the basis that the proposal is for a temporary period;
 - The impact on amenity is considered to be within acceptable limits based on the EHO recommendations with the Noise Management Plan in place;
 - The Council has approved several other similar decks and beach front facilities on the beach and promenade to support the tourism function;
 - Any loss of open space is not significant and temporary;
 - Exempt from Biodiversity Nett Gain.

Planning Balance / Conclusion

- 54 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 the application site is located on the promenade and partly on the beach which is classed as open space it also contributes to the seafront tourism offer and its appearance at present does not downgrade the seafront for the temporary period proposed. Appearance, residential amenity and nuisance considered under Policies CS38 and CS41 are also important considerations. As set out in the report the appearance whilst temporary in nature is considered appropriate in the beach front location. The events that are carried out do create a noisy atmosphere however, the Environmental Health Officer has been working with the applicant to agree a plan that will allow the events to be carried out on a restricted basis with noise control measures in place.
- 55 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

- 56 **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:

201004: 001, 002A, 003A, 004A, 005A, 006A, 007A, 008A, 009A, 010, 011, 013, 014

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

2. Temporary permission expiring

On or before the 31 October 2026 the use of the land as a temporary beach dining and bar area including decking and supporting structures, containers and fencing and any other temporary structures within the area identified on the submitted drawings shall cease and all structures and equipment shall be removed in their entirety and the land restored to its condition before the development hereby permitted took place (as part of the open beach and adjacent promenade areas).

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).

3. External 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 and any lighting shall not illuminate the cliff slope behind the site. Any external lighting shall be directional to only illuminate the area of seating 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 no greater than 550nm.

Reason: In the interests of visual amenity and given the site location on the beach all to accord with policies CS31 and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012) and in accordance with National Planning Policy Framework (2023) paragraph 174 "Planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity"

4 Flood risk management and emergency evacuation plan

The flood risk management plan and emergency evacuation plan prepared by Chapman Lily Planning Ltd and dated 28 November 2024 shall be adopted immediately, and this shall be followed in full 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).

5. Waste management plan

The use and development hereby permitted shall cease and all structures removed within 60 calendar days of the date of failure to meet any one or more of the requirements set out in (a) to (d) below:

- a) within 60 calendar days of the date of this decision a scheme for a waste management plan including litter management from the site that includes a timetable for its implementation shall have been submitted to and received by local planning authority for its written approval;
- b) if the local planning authority refuse to approve the scheme or fail to give a decision within a relevant prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State (or their appointed representative);
- c) if an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State (or their appointed representative); and

- d) the approved scheme (whether approved by the local planning authority, Secretary of State or otherwise) shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, at all times thereafter the works and measures shall be carried out in accordance with these approved details and shall at all times thereafter be retained and maintained.

In the event of a legal challenge to the whole or any part of the permission to which this decision relates or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Reason: To ensure that the proposed development includes a management plan for the collection of refuse in the interests of visual amenities, and to accord with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

6. Hours of use

The use hereby permitted shall not be used outside the following times by patrons and guests: 07.00 hours and 23.00 hours. Any music or other events that includes amplified sound shall cease at 22.00 hours. There shall be no amplified music after 22.00 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).

7. Noise Management Plan

The noise and sound management plan submitted with the application prepared by Noise Assessment Ltd and dated 2/9/24 shall be adopted and operated in full at all times when the use hereby approved is in operation.

Reason: In order to protect the environmental amenities of the immediate locality and in accordance with Policies CS38 and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

8. Annual Maintenance

Notwithstanding the details shown on the approved plans and within a period of 2 months from the date of this permission, a scheme shall be submitted to the Council to agree the annual maintenance and repainting work to the structures and other enclosures and vehicles on the site. The scheme shall also include proposals to refurbish and extend the Art Work with colour washing to the timber hoarding either side of the mural and on the ramps to the toilets. The scheme shall be submitted in writing to the Local Planning Authority, agreed in writing by the Local Planning Authority and implemented before the start of the summer season on the 1st May each year.

Reason: The temporary structures proposed are inappropriate without suitable screening/ painting and maintenance and to ensure the site is acceptable in visual amenity terms in accordance with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

9. Cycle Parking

The use and development hereby permitted shall cease and all structures removed within 60 calendar days of the date of failure to meet any one or more of the requirements set out in (a) to (d) below:

- (a) within 60 calendar days of the date of this decision a scheme for a cycle storage scheme including the provision of Sheffield stands for the site that includes a timetable for its implementation shall have been submitted to and received by local planning authority for its written approval;
- (b) if the local planning authority refuse to approve the scheme or fail to give a decision within a relevant prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State (or their appointed representative);
- (c) if an appeal is made in pursuance of (b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State (or their appointed representative); and
- (d) the approved scheme (whether approved by the local planning authority, Secretary of State or otherwise) shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, at all times thereafter the works and measures carried out in accordance with it shall at all times thereafter be retained and maintained in full working order.

In the event of a legal challenge to the whole or any part of the permission to which this decision relates or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined

Reason: To promote alternative modes of transport and in the interests of amenity in accordance with Policies CS18 and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

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 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.

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 and subsequent amendments.

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.