

Planning Committee

Application Address	26 Sopwith Crescent, Wimborne, BH21 1SQ
Proposal	Replacement roof on side extension; change of use of part of house and garden to Class E(b) (community coffee shop)
Application Number	APP/24/00637/F
Applicant	Mr & Mrs Wheeler
Agent	Mr James Cain
Ward and Ward Member(s)	Cllr Marcus Andrews Cllr David Brown Cllr Richard Burton Ward: Bearwood and Merley
Report Status	Public
Meeting Date	16 January 2025
Summary of Recommendation	Refuse for the reasons set out in the report
Reason for Referral to Planning Committee	More than 20 letters of support received, contrary to the case officer's recommendation.
Case Officer	Babatunde Aregbesola
Is the proposal EIA Development?	No

1. Description of Proposal

2. The proposal is seeking planning permission to replace roof on side extension; change of use of part of house and garden to Class E(b) (community coffee shop).
3. It is pertinent to note that the current application is a resubmission following refusal of previous application under planning reference APP/24/00174/F for a replacement roof on side extension; change of use of part of house and garden to Class E(b) (community coffee shop), which was refused for the following reasons:
 1. The location is outside of any retail designated boundaries and allocations which contradicts the aims of Policy PP2 that seeks to direct retail and commercial leisure activities towards Poole town centre, with supporting growth in the district and local centres.
 2. The function and nature of the proposal in this location - a retail café shop within the curtilage of a dwellinghouse and within a residential neighbourhood setting, would create an incompatible relationship between use classes. By way of excess noise, and pollutants due to increased vehicular movements, the proposal would conflict with the aims of Policy PP27 of the Poole Local Plan, Policy PP22(4) b.

3. The proposal by reason of lack of off-street vehicle parking provision associated with the proposed use would result in on-street parking demands that would lead to significant highway safety issues. The proposal is therefore contrary to Poole Local Plan Policy PP35 and BCP Council's Parking SPD.

A key concern is the latest submitted proposed red line boundary plan (location and site plan- PL01), where the red line is bordered on all sides by the larger blue line boundary. As a result, the submitted site plan gives the impression of a mixed-use development, where the dwellinghouse and the proposed café would share facilities, such as the kitchen and car parking spaces. This suggests that the development proposed cannot function within its red line boundary without relying on facilities outside of it.

Additionally, the latest submitted plan shows the red line boundary within the larger blue line boundary, with no designated vehicular or pedestrian access to the main dwellinghouse. There is also a piece of land towards the north-east and south-east of the site that falls within the blue line but leads nowhere in particular.

The applicant's submitted management plan indicates that "outside of the café's operational hours, the parking spaces will 'flip' to serve the residential use. All four spaces will be available to customers only during café opening hours."

Furthermore, paragraph 1.21 of the management plan states that "all hot food will be prepared in the main kitchen, and the secondary kitchen area shown on the floor plans will be used for food assembly, heating foods, and producing hot drinks (coffee machine). The room is very well ventilated, and therefore no additional equipment is considered necessary." This further reiterates the point made earlier about the submitted plan where the development proposed cannot function effectively on its own and it has to share and rely on facilities outside of its boundary to be able to function.

4. Description of Site and Surroundings

5. The application site relates to an existing conservatory within the ground of a residential curtilage. The site comprises a detached two storey dwellinghouse with access taken from Sopwith Crescent. The application site is a corner plot with a side/rear wraparound outdoor space.
 6. The host dwelling is finished in brick and has a gabled roof. The character of the area is residential with the dwellings along Sopwith Crescent comprise of semi-detached bungalows and two-storey dwellings.
 7. It is important to note that there are established community centre (Merley Loc Centre) located within the vicinity of the application site. This local centre is located with easy access to most resident and comprise adequate parking provision to serve a pre-school, medical centre, pharmacy and other shops. As such, the local centre is purpose built for commercial activities with adequate facility to function well within a residential area. They are within walking distance to majority of the residents within the local area.
 8. The application site is located in a predominantly a residential area, near the Lantern Church.
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9. Relevant Planning History:

10. APP/22/00620/F: Proposed side extension. Approved.
11. APP/24/00174/F: Replacement roof on side extension; change of use of part of house and garden to Class E(b) (community coffee shop). Refused. This application was refused for the following reasons:
1. The location is outside of any retail designated boundaries and allocations which contradicts the aims of Policy PP2 that seeks to direct retail and commercial leisure activities towards Poole town centre, with supporting growth in the district and local centres.
 2. The function and nature of the proposal in this location - a retail café shop within the curtilage of a dwellinghouse and within a residential neighbourhood setting, would create an incompatible relationship between use classes. By way of excess noise, and pollutants due to increased vehicular movements, the proposal would conflict with the aims of Policy PP27 of the Poole Local Plan, Policy PP22(4) b.
 3. The proposal by reason of lack of off-street vehicle parking provision associated with the proposed use would result in on-street parking demands that would lead to significant highway safety issues. The proposal is therefore contrary to Poole Local Plan Policy PP35 and BCP Council's Parking SPD.

12. 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.

14. Other relevant duties

15. In accordance with regulation 9(3) of the Conservation of Habitats and Species Regulations 2017 (as amended) ("the Habitat Regulations), for the purposes of this application, appropriate regard has been had to the relevant Directives (as defined in the Habitats Regulations) in so far as they may be affected by the determination.
16. 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.
17. 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.

18. Consultations

19. BCP Biodiversity Officer: Objection on the grounds that no Biodiversity Statement is submitted with evidence of why de minimis exemptions is applicable in this instance.
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20. BCP Planning Policy Officer: De minimis exemption is not likely applicable in this instance due to loss of hedgerow and grassland within the garden area. The applicant is advised to submit a Biodiversity Statement with evidence of why de minimis is applicable.

21. BCP Highways Authority: Objection

"The submissions have clarified some matters but do not allay the Highway Authority's concerns. Our concerns remain on the parking layout being inefficient and that difficulties in manoeuvring in this area may result in customers choosing the more convenient option of just parking on-street close to the site. Drivers may enter the site, observe capacity or manoeuvring issues and decide to reverse back out to park on-street.

The applicant refers that no residential parking will take place on site during café opening hours (2 residential space are required). Therefore, these residential vehicles will need to park on-street, and we have already raised concerns on on-street parking issues. Also, in reality it would be difficult for enforcement to know whether any cars parked within the car park are associated with the residential use (occupiers or visitors) or associated with customers so this is not a parking management method that we would support.

Any arrangement to use third party land for car parking is not within the application site. Any informal arrangement cannot be controlled and could be withdrawn in the future. Furthermore, the Church car park is not immediately adjacent to the site, customers are still likely to drive to the site first to see if close parking is available before they use any car parking that is further away. No mechanism has been put forward to secure contributions towards parking restriction Traffic Regulation Orders (TRO's). Any contribution would need to be secured via S106 legal agreement as monies cannot be secured via planning conditions.

The introduction of TRO's can have the effect of just pushing the car parking to areas outside of the TRO area. If we had been supportive of TRO's to mitigate parking impacts we would of sought contributions of £3000 to cover TRO's for both sides of the adjacent road junction plus there would be legal fees for the S106 legal agreement. However, there would be no guarantee of those TRO's being introduced as they are subject to procedures separate to the planning application process and there could be third party objections to the introduction of those parking restrictions, especially of local residents thought the TRO's would push parking to be adjacent to their property.

The submissions place emphasis on the proposal being a community café for local people, but as referred to in our previous comments there is no restriction on how far people may travel to use the café. The café will have commercial pressure to be successful and people may choose to drive even a short distance, especially in inclement weather, to use the café.

It will be for the LPA to decide whether it will be easy to enforce by planning condition that only the yellow area is used for café use, noting that the outdoor area is behind high hedging, and it would be relatively easy to put tables and chairs on areas outside of the yellow zone, especially if there is customer demand/pressure".

22. Waste Collection Authority: No objection

"There are no objections on our end as we do not provide comments on commercial units. The developers will have to arrange commercial waste collections".

23. Environmental Health (Noise): No comments to make on the application.

24. Representations

25. Site notice was posted outside the site on 05 July 2024 with an expiry date of 29 August 2024. At the time of report writing, 66 letters of representation were received.
26. 47 letters of support were received. The comments include the following:
- The development will support and bring the community together.
 - Improved facilities
 - Essential facility for the local community.
27. 19 letters of objections were received against the scheme on the following grounds:
- Highway safety and Increase traffic and congestion.
 - Not in keeping with the character of the area.
 - Detrimental to the enjoyment of the personal space and enjoyment of the garden.

28. Key Issues

29. The key issues involved with this proposal are:

- Principle of development
- Impact on the character and appearance of the area
- Impact on residential amenity
- Highway safety and parking
- Waste collection
- Biodiversity considerations
- Sustainability considerations

30. These issues will be considered along with other matters relevant to this proposal below.

31. Policy Context

32. 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.

Poole Local Plan (Adopted 2018)

PP01 Presumption in favour of sustainable development

PP02 Amount and Broad Location of Development

PP22: Retail and main town centre uses

PP27 Design

PP33 Biodiversity and Geodiversity

PP34 Transport strategy

PP35 A Safe, Connected and Accessible Transport Network

PP37 Building Sustainable Homes and Businesses

PP39 Delivering Poole's Infrastructure

Emerging Local Plan

Strategic Policy S3: Healthy communities

Policy S4: Health and wellbeing

Strategic Policy BE1: Design and high quality places

Policy BE3: Living conditions

Policy E2: Employment supply

Supplementary Planning Documents

BCP Parking Standards SPD (adopted January 2021)

The Dorset Heathlands Planning Framework 2020-2025 SPD (Adopted March 2020)

Nitrogen Reduction in Poole Harbour SPD

Poole Harbour Recreation 2019-2024 SPD

33. National Planning Policy Framework (NPPF) (December 2024)

On 12 December 2024, the Government launched a revised National Planning Policy Framework sets out government's planning policies for England. The revised changes are given very significant weight in the consideration of this application.

A revised National Planning Policy Framework – December 2024 (the Framework) has been published since this submission of this application. Provisions of this revised Framework that are relevant to this decision are largely the same as relevant provisions of the previous version. On this basis, I am content that taking account of the latest version of the Framework in this application would not be unfair on the applicant. Below are the relevant sections of the Framework to the development proposed.

Section 2 – Achieving Sustainable Development

Section 6: Building a strong, competitive economy

Section 12: Achieving well-designed and beautiful places

34. Planning Assessment

During the application process, several revised plans were submitted to address issues and discrepancies identified within the scheme

35. Principle of development

36. A revised National Planning Policy Framework – December 2024 (the Framework) has been published since this submission of this application. Provisions of this revised Framework that are relevant to this decision are largely the same as relevant provisions of the previous version. On this basis, I am content that taking account of the latest version of the Framework in this application would not be unfair on the applicant. Below are the relevant sections of the Framework to the development proposed.

37. The Local Authority as part of Bournemouth Christchurch and Poole Council submitted the draft BCP Local Plan to the Secretary of State on 27 June 2024 for examination. If approved by the Inspectors, the BCP Local Plan will replace the current Local Plans around mid-2025. Given the high level of uncertainty that future revisions of the draft BCP Local Plan will echo the consultation version, the potential changes are given very limited weight in the consideration of this application.

38. The proposal involves the change of use of part of a dwellinghouse and outdoor garden area to Class E(b) (community coffee shop) incorporating a new flat roof on the existing side extension with an outdoor sitting area to serve the retail premises. The proposed development would be located within a residential built-up area, and it would create a café/shop within part of the curtilage of the existing dwellinghouse that is to be severed from that part of the existing curtilage that is to be retained for residential use.

39. The proposed community coffee shop, as shown within the submitted plans, would be attached to the host property and partly sited within the outdoor amenity space of the existing dwellinghouse, adjacent to the highway.
40. Policy PP2 (4) states that
“(a) the focus for meeting employment needs will be directing new office development to Poole town centre, intensifying allocated sites within Poole’s existing employment areas in conjunction with strategic employment allocations at Port of Poole, Talbot Village and Magna Business Park. (b) Retail and commercial leisure needs will be directed towards Poole town centre, with supporting growth in the district and local centres to meet the localised daily needs that are easily accessible for nearby residents through active and sustainable forms of travel”.
41. Policy PP2 is supported by Policy PP22(1), which states that *“the Council adopts the town centre first approach. New proposals for retail or other main town centre uses should be located in Poole town centre, district centres, local centres and neighbourhood parades in accordance with the retail hierarchy. Outside of these areas, proposals for bulky goods should be located in the retail parks”.*
42. Furthermore, Policy PP22(4) provides guidance for proposals outside designated boundaries and allocations. It states as follows:
“Outside of designated boundaries and allocations new retail development and main town centre uses will only be permitted where:
(a) The proposal satisfies the sequential test and for retail and leisure schemes over 280 sq. m (net) floor space an impact assessment; and

(b) it is appropriate in scale, role, function and nature to its location and does not prejudice the role and function of Poole town centre or undermine the retail strategy; and

(c) in the case of Poole’s retail parks, the proposal is predominantly for bulky goods or DIY retail floor space, and which is not suited to a town centre location; or

(d) in areas of demonstrable need, the proposal is for a local convenience food shop providing up to 280 sq. m (net) of floor space.
43. The proposed development represents a main town centre use in accordance with the definition set out in Paragraph 91 of the NPPF and paragraph 7.45 of the preamble text to Policy PP22 of the Poole Local Plan. However, the site is located outside of the designated boundary for retail or other main town centre uses that should be located in Poole town centre, district centres, local centres and neighbourhood parades in accordance with the retail hierarchy.
44. There is a designated local centre known as Merley Community Centre, which already is a community hub not far from the application site, which is more suitable for this type of use rather than it being located within a domestic residential curtilage and without detrimental impact on the residents.
45. The applicant has not demonstrated how the development proposed would satisfy the sequential test, as required by Policy PP22(4a). Consequently, the location of the development would undermine the Council’s retail strategy which focuses such development in Poole town centre, district centres, local centres and neighbourhood parades in accordance with the retail hierarchy.
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46. Furthermore, the proposed development is not appropriate in its' scale, role, function and nature in its' residential location and in accordance with Policy PP22(4b), in the absence of any evidence to the contrary, it would prejudice the role and function of Poole town centre and undermine the retail strategy. Therefore, the proposal to provide a community café within the residential setting is considered inappropriate and not compatible with its immediate context.
47. The principle of the proposal, by reason of its location, is considered incompatible with surrounding uses. As such, it would contradict the aims of Policies PP2(4b) and PP22 (1) and (4), which seeks to direct retail and commercial leisure activities towards Poole town centre, with supporting growth in the district and local centres.
48. Impact on Character and Appearance of the Area
49. Policy PP27 states that development will be permitted provided that it reflects patterns of development and neighbouring buildings in terms of layout and siting (including building line and built site coverage); height and scale; bulk and massing; materials and detailing; landscaping; and visual impact.
50. The development proposed will introduce a new side extension to replace existing conservatory increase the hardstanding area to create off-street parking space to serve both the commercial and dwellinghouse interchangeably.
51. The new side extension would be slightly bigger than the existing with a mono-pitched roof design. It would appear subservient and less visible from the street scene. The new hardstanding area, although larger than existing but will not dominate the site as sufficient grassland area and hedgerow would still be retained within the site. In light of this and given the small size of the extension proposed as addition to the site the proposed development would neither read as an unsympathetic nor visually intrusive addition to the host building or wider local area.
52. As such, it is not considered to have significant adverse visual impact on the visual amenity of the application site and street scene. The development would accord the aims of Policy PP27 of Poole Local Plan as it relates to character and appearance of the area.
53. Policy PP28 (2) states that proposals involving plot severances or plot sub-divisions will only be permitted where there is sufficient land to enable a type, scale and layout of development including parking and usable amenity space to be accommodated in a manner which would preserve or enhance the area's residential character.
54. The proposal would divide the plot and convert the existing conservatory footprint to a Class E(b) (community coffee shop). The existing dwelling would have a reduced rear garden, and this would leave a modest rear garden for the occupants of No 26 Sopwith Crescent. With the gardens retained, and in an area where small plots are not uncommon, the development would not appear incongruously cramped in this setting. The proposal in these respects would not harmfully disrupt the prevailing character of the area.
55. The proposal involves the change of use of an existing conservatory of a dwellinghouse and outdoor garden area to Class E(b) (Community Coffee Shop) incorporating a new flat roof on the existing side extension with an outdoor sitting area to serve the retail premise and pedestrian access. The proposed change of use of part of the land to a commercial unit, albeit small in size, would introduce a conflicting activity within the curtilage not associated with a residential garden space.
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56. It is pertinent to note that the revised submitted site plan show the red line boundary being encompassed by the blue line, where pedestrian and vehicular access are within the red line boundary. Based on the submitted details, the access point and parking space would be shared by both the dwellinghouse and the proposed commercial premise. Nonetheless, outdoor amenity space is provided to the host dwellinghouse towards the rear of the site.
57. The applicant stated that the proposed café within the garden would provide a welcoming and convenient space for residents and passers-by to enjoy high quality coffee, light snacks, and a combination of indoor and outdoor spaces for eating and drinking. Such level of intense traffic involving customers visiting the café is out of character and not compatible with a residential garden space.
58. The proposal would make use of an existing parcel of land within the garden of 26 Sopwith Crescent. The residential property would maintain a reduced outdoor private garden to the rear, however; the remaining outdoor garden would be sufficient for the occupier of the main dwelling. Furthermore, the proposal would lead to the introduction of more hardstanding area within the curtilage of the site to create additional parking spaces resulting to further loss of existing vegetation within the site.
59. The loss of vegetation within the curtilage of the application site is considered to have adverse effects on the character of the area where most properties within the area boast verdant lawn which forms part of the local character. However, this harm would be limited and localised within the site such that limited weight would be given to the harm caused due to loss of this vegetation to the overall character of the site and the area
60. The existing single storey conservatory attached to the host property would be refurbished including external alterations with a new roof and converted to a retail premise with an outdoor seating area. Due to its location within the site, it would be visible from the street scene and this impression would be accentuated by the design of a new pedestrian access created through the existing hedgerow along the side boundary.
61. The local area comprises predominantly residential buildings. The proposed use of the subject space within the curtilage of a residential premise would not be compatible to the character of the area within its context. In addition, the proposal would not have sufficient land to enable a type, scale and layout of development including parking space to be accommodated in a manner which would preserve or enhance the area's residential character for the proposed use. This issue is discussed in the latter part of this report in detail.
62. There is a designated local centre known as Merley Community Centre within walking distance, which already provides the community hub not far from the application site, which is more suitable for this type of use rather than a domestic residential curtilage. Therefore, the need to have a community café within a residential curtilage is considered inappropriate and not compatible with its immediate context.
63. It follows from the above that I conclude that the proposal would harm the character and appearance of the area and have a harmful effect on the residential setting. As such, it is contrary to Policies PP27, and PP28 of the Poole Local Plan November 2018. Amongst other things, these seek development that reflects or enhances local patterns of development and preserve or enhance the area's residential character in manner that will
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function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development

64. Overall, the proposal would not complement the character of the building and local area. The proposal, therefore, would cause adverse harm and be out of keeping with the character of the area and fails to accord with Policies PP27 and PP28 of Poole Local Plan. Policies.

65. Impact on residential amenity of neighbouring properties

66. Policy PP27(c & d) seeks to ensure that development is compatible with surrounding uses and would not result in a harmful amenity for local residents and future occupiers considering levels of sunlight and daylight, privacy, noise and vibration, emissions, artificial light intrusion and whether the development is overbearing or oppressive.

67. The proposed development would be located within the curtilage of a residential dwellinghouse. The proposed development would be also within proximity to property at No.28 with a shared boundary. The BCP Environmental Health officer has been consulted on this proposal, however no comments were offered.

68. Notwithstanding the lack of official consultation response from the Environmental Health Officer in terms of noise and disturbance associated with the proposed use, the following assessment of impacts can be provided. The proposed development would attract traffic of people to the outdoor garden, which normally known to be tranquil and free from noisy activity associated with a commercial premises, such as café. Such level of intense traffic involving customers visiting the café would have a detrimental impact on the amenities of the adjacent residential properties, including the host dwelling in terms of noise and general disturbance.

69. The applicant has indicated that the proposed café/shop would be open for customers between 8.00am to 2.30pm Tuesday to Saturday. However, the premises would begin its operation at 7.30am in preparation for its opening at 8am.

70. The proposed café would attract customers and intensify use within the outdoor space of the host property and its surroundings. The description of the proposal refers to a "community" coffee shop, however there is nothing to stop customers travelling to the café from further afar. Indeed, it would be in the business interests for the café to attract as many customers as possible, regardless of where those customers travel from.

71. In terms of deliveries, the applicant stated that majority of the food and drinks supplies will source by the applicants themselves limiting the number of deliveries travelling to site. The deliveries would take place via the main entrance of the site. The applicant has not proposed any hours for delivery to the site. However, within the submitted Management Plan, it is stated that use would begin at 7.30am for preparation of the café being open to the customers. It is, therefore, assumed that delivery of supplies could take place during this time, ei. early morning hours of the day. Such arrangement would exacerbate the noise associated with the proposed development and further affect the peaceful enjoyment of the neighbouring properties.

72. Part of the proposed development would be attached to the host property and located adjacent to neighbouring outdoor garden space. The proposed use within the residential

area within proximity to the domestic context would give rise to general disturbance emanating from the going and coming of customers and cars travelling to the site, which would adversely affect the living conditions of the occupiers of the host property and quiet enjoyment of neighbouring rear gardens.

73. The applicant in this case has not made any meaningful provision to mitigate any noise impact that may potentially emanate from the use of the outdoor garden space as a commercial premises such as a café as a result of the comings and goings of customers, noise from customers dining with their children playing within the garden and vehicular movement to and from the site. In an effort to address the noise issue, the applicant has only relied on the limited hours of operation as the only mitigating factor for noise impact.
74. The submitted Management Plan outlines measures proposed to control the noise arising from the customers using the café. The proposed use of signage (requesting the customer noise to be kept to a minimum) and the fitting the outdoor furniture of the café with soft fabric materials that the applicant suggests would reduce the noise associated with the use of any patio furniture are not sufficient to address the concerns raised above and any conditions seeking to control such measures would not be enforceable by planning conditions.
75. Additionally, the proposal does not include any details of the impacts that could be generated from the proposal by way of cooking odours emanating from the proposed café, the noise associated with the potential extraction fans serving the proposed café that might be required to be installed. Whilst the submitted Management Plan advises that no extractor fans are proposed, as the main kitchen area within the dwelling (and the secondary kitchen associated with the café) is well ventilated, this is believed to be to a standard associated with the use of the kitchen for residential purposes, rather than on a commercial scale. It is therefore considered that the use of extractor fan could be required in the future. The noise generated by such extraction system could have detrimental impact on the enjoyment of the neighbouring dwellings, including their gardens. Importantly, in any case, the proposal is to sever the proposed community coffee shop from the existing residential unit that exists on site and therefore the kitchen to the existing residential dwelling could not be used in association with the proposed community coffee shop as it does not fall within the identified area for that use (i.e within the red of the application site).
76. As such, the development is not considered compatible with surrounding uses and would result in harmful impacts upon amenity for both occupiers of the host property and neighbouring properties considering levels of general disturbance. Cooking odours, potential extractor fans and noise emanating from the customers visiting the café and vehicular movement associated with visitors, deliveries and waste collection vehicles. The proposal would contradict with the aims of Policies PP27 and PP28 of Poole Local Plan.
77. Impact on highways and parking
78. The Council's adopted Parking Standards SPD sets out the ideal parking requirements for various use classes. The proposal is within Zone D and the parking requirements for the unit of this size are 4 parking space for 100m² of retail space.
79. The internal servery for the café measures 18sqm. The proposed seating area under the mono-pitch roof measures 18sqm. There is a further outside bench area which measures
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4sqm. This provides a total square metre area of 40sqm in which customers are served food and drink and have an area to consume them. The remainder of the red line area sets out parking, pedestrian walkways between the parking area and the servery and, from the pedestrian access to the servery.

80. The proposed site plan shows 4 perpendicular parking spaces within the red line, which are to be associated with both uses on site (within the red and blue lines). The applicant advised that the café customers would be able to use the off-road residential parking spaces on site during the operational hours of the café. It is proposed that these parking spaces would thereafter return to their residential use after 2.30pm each day.
81. It is also proposed that no residential parking would take place on site during café opening hours. The revised red line site plan shows that the dwellinghouse would not have direct pedestrian or vehicular access including the parking area within the forecourt. It is however noted that the proposed café would form a separate planning unit and therefore the reliance on the flexibility of parking arrangements between both uses within the red line would not be enforceable or practical. The issue around accessibility to the dwellinghouse remains a concern.
82. The host dwelling is required to retain 2 off-road parking spaces permanently and as such, there is conflict between the proposed uses and their parking requirements on site. In the event of the café customers using the residential parking of the host dwelling, the occupants of No 26 Sopwith Crescent would be forced to park on the street and that would exacerbate the on-street parking issues. Additionally, as stated above, it would be difficult to enforce whether any cars parked within the car park are associated with the residential use (occupiers or visitors) or associated with customers. Such arrangement is therefore not supported by the Highways Authority.
83. Having been consulted, BCP Highway Officer objected to the proposed scheme and advised that the proposed parking layout is inefficient, and it would lead to difficulties in manoeuvring in this area, with the prospective customers choosing the more convenient option of parking on-street, close to the site. Furthermore, drivers may enter the site, observe capacity or manoeuvring issues and decide to reverse back out to park on-street, which would exacerbate the highway safety in this location close to the junction.
84. Additionally, any arrangement to use third party land for off-road car parking associated with the proposed use, cannot be controlled by conditions and could be withdrawn in the future, as it is not within the application site. Whilst it is noted that there is a church car park in the vicinity of the site, that might be used for parking by the café customers, the BCP Highways Officer advised that this car park is not immediately adjacent to the site and therefore the prospective customers would still be likely to drive to the site first to see if more convenient off-road parking is available on site, before they use any car parking that is further away.
85. The Highway Authority advised that no mechanism has been put forward to secure contributions towards parking restriction Traffic Regulation Orders (TROs) to facilitate the proposed off-road parking provision.
86. The Highway Authority advised that the introduction of TROs can have the effect of just pushing the car parking to areas outside of the TRO area. Had this solution been supported, a financial contribution of £3000 to cover TROs for both sides of the adjacent
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road junction would have been sought to be secured via S106 legal agreement. The applicant has not entered into such agreement.

87. Notwithstanding the above, however, there would be no guarantee of those TROs being introduced, as such Orders are subject to procedures separate to the planning application process and there could be third party objections to the introduction of those parking restrictions, especially of local residents thought the TROs would push parking to be adjacent to their property.
88. It is worth noting that the applicant places emphasis on the proposal being a community café for local people, but whilst the Highway Authority noted this, it was advised that there is no restriction on how far people may travel to use the café. The café would have commercial pressure to be successful and draw the clients from further away, and people may choose to drive even a short distance, especially in inclement weather.
89. As a direct result, enforcing any planning conditions designed to address this issue would be not possible. Any conditions designed to contain the off-road parking for the proposed café the yellow area, as annotated on the plans (noting that the outdoor area is behind high hedging, and it would be relatively easy to put tables and chairs on areas outside of the yellow zone as marked on the submitted plan), would not be enforceable and therefore fail the tests for effective planning conditions.
90. Overall, the Council's Highway Authority objects to the proposed scheme as the proposed parking layout is considered inefficient and would create difficulties in manoeuvring in this area which may result in customers choosing the more convenient option of just parking on-street close to the site. The proposal would result in direct conflict between the parking provision for both uses on site and cause further highway safety pressures in the vicinity of the site. The proposal is therefore contrary to Poole Local Plan Policy PP35.
91. Waste collection consideration
92. The proposed scheme is accompanied by a Management Plan, which indicates at paragraph 1.16 that the waste and recycling would be collected privately and not by the BCP Waste Collection Authority. Had this proposal been recommended for approval, this issue could have been dealt with via a planning condition. Subject to that condition, the proposal is supported by the BCP Waste Collection Authority.
93. Sustainability
94. Policy PP37 encourages proposals for new homes and commercial development must contribute to tackling climate change. Section 2 of Policy PP37 states that (a) where appropriate, new commercial development under 1,000 sq. m (net) commercial floor space should incorporate a 10% of future energy use from renewable energy sources.
95. Furthermore, in line with the provisions of Policy PP37, proposals for commercial development would also be required to meet a 'very good' BREEAM rating.
96. The applicant has not demonstrated how the development would accord the above requirements. However, it is noted that, due to the scale and nature of the proposed scheme (being a retrofitted residential conservatory), it is not likely to be feasible for the development to meet the policy required BREEAM rating. Such a requirement would be overly onerous in proportion to the scale of the proposed scheme. The policy non-compliance in this regard is noted.
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97. Biodiversity

98. Policy PP33 seeks that new development need to demonstrate how any features of nature conservation and biodiversity interest are to be protected and managed to prevent any adverse impact.
99. The proposal relates to a single storey side extension attached to an existing dwellinghouse and garden area associated with the host property. The Council has no evidence of protected species being present on site.
100. Therefore, given the nature of the proposed use, it is not considered to cause harm to any protected species. Notwithstanding the above, no biodiversity enhancement was provided with the scheme, had the proposal been recommended for approval a condition to secure biodiversity enhancement would have been imposed.
101. On matter relating to Biodiversity Net Gain, the 'de minimis' exemption has been claimed by the applicant when submitting the application form. This exemption is applicable where less than 25sqm of area habitat or less than 5m of linear habitat (such as hedges) is impacted by the development. The legislation requires that where the exemption is claimed, a BNG statement should also be provided to demonstrate why the exemption applies. The BNG statement should include sufficient evidence to provide certainty to the local planning authority that the exemption has been claimed correctly.
102. In this case, no BNG statement has been provided because the applicant concluded that only 24sqm area of habitat will be loss to the development. However, looking at aerial photographs of the site and the details of the proposed development, it is considered that the de minimis exemption may not be applicable, as advised by the Council's Biodiversity Officer as a result of the fact that more than 25sqm of area of habitat would loss to the development including hedges. Where the exemption is not applicable, an application would be required to meet the requirements of mandatory Biodiversity Net Gain, which includes the submission of a Statutory Biodiversity Metric and a Biodiversity Statement. This has not been provided.
103. The applicant has failed to provide sufficient evidence to demonstrate the proposed development would meet the definition of 'de minimis', as set out within the Biodiversity Gain Requirements (Exemptions) Regulations 2024 and, therefore the Local Planning Authority cannot be confident that the statutory biodiversity gain condition would not apply. Consequently, the Local Planning Authority cannot be confident that the proposed development would comply with the requirements of Schedule 7A of the Town and Country Planning Act 1990 and Schedule 14 of the Environment Act 2021.
104. The proposal would therefore contradict the aims and requirements of Schedule 7A of the Town and Country Planning Act 1990 and Schedule 14 of the Environment Act 2021.

105. **Planning Balance / Conclusion**

106. There are some very modest social and economic benefits to developing a modestly sized café shop in this location; however, these would not outweigh the non-compliance of the proposed scheme with the provisions of Policies PP2 and PP22 of the Poole Local Plan and Paragraph 109 of the National Planning Policy Framework. Furthermore, these benefits do not outweigh the harmful impacts in respect of the suitability of its location and
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character of the area, the amenity of the adjoining residents and highway safety, as outlined in the report. In addition, the proposed scheme fails to comply with the Biodiversity Gain Requirements (Exemptions) Regulations 2024.

107. Material considerations, including the Framework do not indicate that the proposal should be determined other than in accordance with the development plan. Having considered all other matters raised, I therefore conclude the application should be refused based on the reasons given above.

108. Recommendation

109. It is therefore recommended that this application is refused for the following reasons:

1. The principle of the proposal, by reason of its location, is considered incompatible with surrounding uses and fail to reflect or enhances local pattern of development and is contrary to the provisions of Policies PP2(4b) and PP22(1-4) of the Poole Local Plan (November 2018), that seek to direct retail and commercial leisure activities towards Poole town centre, with supporting growth in the district and local centres. Furthermore, the applicant has not demonstrated how the development proposed would satisfy the sequential test, as required by Policy PP22(4a). Consequently, the location of the development would undermine the Council's retail strategy which focuses such development in town centre, district centres, local centres and neighbourhood parades in accordance with the retail hierarchy.
2. The function and nature of the proposal in this location (a retail café shop within the curtilage of a dwellinghouse and within a residential neighbourhood setting), would create an incompatible relationship between the uses of the site by way of excess noise from coming & going of customers, odours, pollutants and general disturbance due to increased vehicular movements, detrimental to the residential amenities of the neighbouring residents. The proposal would conflict with the aims of Policies PP27 and PP22(4b) of the Poole Local Plan (November 2018).
3. The proposed scheme would result in an inefficient proposed parking layout on site and direct conflict between the residential and commercial off-road parking provision on site; and it would create difficulties in manoeuvring in this area which may result in customers choosing the more convenient option of just parking on-street close to the site. As such, the proposed on-site parking layout would result in an unacceptable amount of on-street parking demands on the public highway and increased vehicle manoeuvring on and off the site with resultant significant highway safety issues. The proposal is therefore contrary to the provisions of Poole Local Plan Policy PP35.
4. The applicant has failed to provide sufficient evidence to demonstrate the proposed development would meet the required BNG 'de minimis' exemption, as set out within the Biodiversity Gain Requirements (Exemptions) Regulations 2024 and, therefore the Local Planning Authority cannot be confident that the statutory biodiversity gain condition would not apply. Consequently, the Local Planning Authority cannot be confident that the proposed development would comply with the requirements of Schedule 7A of the Town and Country Planning Act 1990 and Schedule 14 of the Environment Act 2021.

Background Documents:

APP/24/00174/F and APP/24/00637/F

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.

Case Officer Report Completed

Officer: Babatunde Aregbesola

Date: 17/10/24

Agreed by:

Date:

Comment:
