



# Planning Committee

Application Address	Bistro on Beach site, Southbourne Promenade, Bournemouth BH6 4BE
Proposal	Retention of all temporary structures and use for beach dining and bar purposes agreed on planning application 7-2023-1696-L to be extended until 31 October 2027 (from October 2026) (Variation of Condition 2 to read on or before 31 October 2027 the use of the land as a temporary beach dining and bar area including decking and supporting structures shall cease.
Application Number	P/25/01453/CONDR
Applicant	K Slater
Agent	Chris Miell Pure Town Planning
Ward	East Southbourne & Tuckton Councillor Bernadette Nanovo Councillor Judy Richardson
Report Status	Public
Meeting Date	28 August 2025
<b>Recommendation</b>	<b>GRANT</b>
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 than 10 letters of objection.
Case Officer	Steve Davies
Is the proposal EIA Development?	No

## **Description of Development**

- 1 Planning permission is sought to extend the previous temporary consent for a further 1 year period. The site and current consent is for the retention of 3 no. shipping containers, comprising hot food kitchen, serveries, ice-cream kiosk and storage spaces; staircase and 'rooftop' customer seating; 1 no. 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; 1 no. 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.
- 2 The use has already been implemented and therefore the application falls under section 73 of the Planning Act to modify the condition imposed which restricts the permission for a temporary period. The other conditions will still apply. 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 marquee 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 the Southbourne area of Bournemouth. On the promenade in the location of the existing long-standing Bistro on the Beach restaurant/café which has now been demolished. There is a car park and footpath access up the cliff to the rear of the site.

### **Relevant Planning Applications and Appeals:**

- 5 The following more recent applications:
- 2023-1696-M for “Retention of painted mural on front boundary treatment and installation of other ancillary fascia signs”. Advertisement applications are dealt with under delegated powers.
  - 2023-1696-L for 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). Approved by the Planning Committee.
  - 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.
- The site adjoins the cliff slope which is a Site of Nature Conservation Interest.

### **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**

(Extensive consultations were carried out in respect of the previous consent and these are set out below and updated where appropriate)

- 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 was satisfied with the information they had provided in respect of the previous approval. The Environmental Health Officer (EHO) remains satisfied with the control measures in place to mitigate music, noise and minimise the impact on local residents.
- 14 Highway Officer – No objection
- 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 27 June 2025.

- 20 A 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.

- 2 Non-objection-support comments:

- 10 Objections

- One of the objection letters is from a Planning Consultant responding on behalf of 22 local residents including some of those residents that have also written in separately.

- 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. National Planning Guidance states that it is ‘rarely justifiable’ to approve a second temporary permission. There are no exceptions or material considerations which would overcome this clear policy.

2. The previous temporary permission was only justified on the basis of the existence of a lawful fall-back position – that position has now been lost as it will expire in July 2025. Given the finely balanced officer’s report, it is now considered that the matter which carried the most weight in favour of granting consent until October 2026 has now fallen away – as such, how can this application to extend the temporary permission be justified?

3. Noise and parking pressures and harm continue to persist and the proposal 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 the continuation of 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.

4. 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 once again 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.

5. 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 at all as a stark contradiction to the Climate Emergency that BCP has called and its desire to be carbon neutral as an organisation by 2030.

6. 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.

7. 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 in this regard. The National Planning Policy Framework ('the NPPF') is also relevant to the determination of this application and in particular Paragraphs 131 to 135 which concerns design with good design 'being a key aspect of sustainable development'. Paragraph 135 states that planning decisions should ensure that all proposals 'are sympathetic to local character'.

8. 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 set out in the previous application 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 still 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 development
  - Impact on character and appearance of the area;
  - Impact on amenity;
  - Impact on the coastal engineering and flood risk
  - Biodiversity

- Transport Issues.

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  
 CS35: Nature and Geological Conservation Interests  
 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 (2024)**

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 however, it has now been withdrawn and due to the stage the Plan has reached, the majority of policies are attracting no weight at this time.

### **Planning Assessment**

#### Principle of development

- 31 The principle has already been established with the previous temporary consent. In general terms the use is considered to be appropriate in this seafront location. The main issue is whether the temporary period should be extended and this will be assessed in the sections below.
- 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 still 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 relatively small 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.

Impact on character and appearance of the area

- 36 The main issue is the appearance of this temporary venue. Planning permission had been granted for a replacement building but in the interim this temporary use has been established. While the permission for the permanent building has now lapsed the site remains ideal for a replacement café development. The applicant is seeking permission to continue the use until the end of the summer 2027 which is one year longer than the current consent period. The various structures are not of a permanent design and have a temporary appearance. They 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. The original temporary period was imposed for the following reason.

*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).*

- 37 In the previous officers' report to Committee it was recommended that as this is a particularly prominent and important location, 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.
- 38 However, on reflection and given that there is a requirement to refresh the site each season a further year until 2027 is considered acceptable. The structures are still in an acceptable condition and are unlikely to deteriorate to an unacceptable condition within a further year. When considering this issue an important factor is that many structures on and close to the beach are often ravaged by the weather and it is not uncommon for beach huts and similar structures to look well worn. Another factor is that the consent for the

development of the site has now lapsed and therefore it is unlikely that a replacement building will be on site by the end of the current permission. It is considered that the activity and facilities provided by the café operation are beneficial to the area and provide a good tourism facility to this part of the seafront. An empty site would make the area less vibrant and less characterful. Being at the base of the zig zag that gives access from the cliff top to the beach to many people a destination and café/bar is a positive feature even though the structures are temporary and not as smart as a new building.

- 39 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

- 40 The premises have increased activity in the area with more people coming and going from the site and creating a livelier 'party' atmosphere especially during the "events" 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.
- 41 However, the main concerns raised previously related 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 and some still suggest that the events are a disturbance. At times during the past summers the noise from the events has been intrusive. However, the site had been monitored during the summer by the Environmental Health Officer prior to the previous consent and has been monitored since. Following discussions with the Environmental Health Officer, applicant had reduced noise levels and is operating a noise management plan. The plan was developed following a noise impact assessment that was carried out and contains the following noise control measures:
- s) The permitted operating hours of the site will be strictly adhered to and effectively communicated to all site staff and patrons;
  - s) Maintenance of a complaints form for any complaints received directly to the business;
  - s) 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;

- s) 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.
- s) Maintain suppressor set level, with no changes permitted;
- s) 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;
- s) Music levels will be reduced to background level immediately as any events end;
- s) 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;
- s) 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;
- s) Using reputable DJ's who are aware of the constraints and sensitivity of the environment;
- s) Restricting events to 4 hours maximum with music elevated above background level;
- s) No Subwoofers shall be installed to the speaker system;
- s) Directing the speakers to the sea away from the residential properties;
- s) 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;
- s) 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;
- s) 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;
- s) 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;

s) Dialogue with some residents in the area has already been established;

s) Events advertised on the website with start and finish times.

42 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 this will be conditioned again.

43 The Environmental Health Officer is supportive of the proposal with the noise management plan in place. While there have still been some ongoing complaints it is considered that the site overall operates in an acceptable and reasonable manner. Although a consent until 2027 gives a lengthy period it is important to note that if there are any serious breaches there are enforcement powers available under the planning conditions imposed and the Environmental Health Officer has powers to deal with statutory nuisance separately from the planning position. 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

44 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.

- 45 The previous consent considered the flooding issues and the agreed flood risk measures will still apply to the extended consent.
- 46 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

- 47 With regard to Statutory Biodiversity Net Gain as the original application was submitted prior to the requirement and as such any habitat has already been affected. In any event the proposal would be de minimis as less than 25 sq m of original habitat would not be compromised.
- 48 Further, as set out above the Biodiversity Officer and Natural England did not object to these facilities but a condition about lighting will 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, CS35.

#### Transport Issues

- 49 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 implemented for the current proposal to help manage cycle parking at the venue. The objectors have raised concerns with regard to traffic and the location with

regard to public transport. However, the Highway Officer was previously satisfied with the proposals and has no objection to the additional period sought. On this basis, the proposal would be compliant with policies CS18, CS38 and CS41.

### Summary

- 50 As set out above it is considered that the proposal is still acceptable on the basis that;
- The design is acceptable on the basis that the proposal is still for a temporary but extended 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;
  - Biodiversity Net Gain issues acceptable.

### Planning Balance / Conclusion

- 51 One of the objectors has made the point that a temporary consents should be a one off and not be renewed. That is the case where you are trialling something and then a permanent consent should be considered. However, in this case it is a question about whether the site would still be in an acceptable condition in 2 years time rather than one year. As set out above, on reflection, it is considered that a further year until the end of the 2027 season is acceptable especially as there is a condition to refresh the site each spring. 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.
- 52 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**

53 **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: 001A, 002A, 003A, 003.1, 004C, 004.1, 005B, 005.1, 006B, 006.1, 007A, 008A, 009C, 009.1, 010, 011, 012A, 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 2027 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 approved waste management plan approved for application 7-2023-1696-L shall continue to be adopted, and this shall be followed in full at all times.

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 7-2023-1696-L 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**

The scheme for the annual maintenance and repainting work to the structures approved for application 7-2023-1696-L shall continue to be adopted and the bus and containers shall be repainted/refreshed each March before the beginning of the season, and this shall be carried out in the future at all times.

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 scheme for the cycle parking approved for application 7-2023-1696-L shall continue to be adopted, and this shall be maintained in full at all times.

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).

## **10. CCTV Scheme**

The scheme for the CCTV approved for application 7-2023-1696-L shall continue to be adopted, and this shall be maintained in full at all times.

Reason: To ensure that the proposed development includes measure to keep the site safe and secure in the interests of public safety, and to accord with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012).

## **Informative Note:**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition ("the biodiversity gain condition") that development may not begin unless: (a) a Biodiversity Gain Plan has been submitted to the planning authority, and (b) the planning authority has approved the plan. The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Bournemouth, Christchurch and

Poole Council. There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed in paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024.

Based on the information available this permission does not require the approval of a biodiversity gain plan before development is begun because one of the statutory exemptions or transitional arrangements listed is relevant”.

**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 our 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.