

<b>Application Number:</b>	P/FUL/2022/05448
<b>Webpage:</b>	<a href="https://planning.dorsetcouncil.gov.uk/">https://planning.dorsetcouncil.gov.uk/</a>
<b>Site address:</b>	The Boat DSK2 Kiosk opposite 41-42 The Esplanade Weymouth
<b>Proposal:</b>	Use of beach to extend existing decking area.
<b>Applicant name:</b>	Mr Daren Deadman
<b>Case Officer:</b>	Tim Marsh
<b>Ward Member(s):</b>	Councillor Orrell

### 1.0 Reason application is going to committee

This application has been brought to committee for determination as Dorset Council is the landowner.

### 2.0 Summary of recommendation:

Grant subject to conditions as set out in this report.

### 3.0 Reason for the recommendation:

The proposals are supported in principle under Local Plan policy SUS2ii and ECON5 and although the Conservation Officer has expressed concerns, the proposed decking is low level with limited associated visual impact, and it is considered that any perceived adverse impact in terms of asymmetry with the other kiosk to the north would not be so significant as to outweigh the benefits to the local economy or cause noticeable harm to the character of the Conservation Area. This conclusion has been reached having regard to: (1) section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 that requires special regard to be paid to the desirability of preserving or enhancing the setting of Listed Buildings; and (2) Local Plan policy.

### 4.0 Key planning issues

<b>Issue</b>	<b>Conclusion</b>
Principle of development	The proposals are supported in principle under policy SUS2ii of the West Dorset, Weymouth & Portland Local Plan (2015).
Heritage and Design	The proposal for a decking extension at beach level is appropriate to its location as a low level feature with limited associated visual impact that is sympathetic to local character and would maintain the existing sense of place on

	Weymouth sea front and cause no harm to the significance of the Weymouth Town Centre Conservation Area (designated heritage asset). The application therefore accords with Local Plan policy ENV4 of the West Dorset, Weymouth & Portland Local Plan (2015).
Amenity	Amenity impact is neutral given the location on the esplanade and the existing use as a kiosk.
Economic benefits	The proposal is supported under Local Plan policy ECON5i) as it would increase the quality and diversity of the tourism offer in the local area and benefit the local economy.
Flood Risk	Although in flood zone 2 the existing café use is a less vulnerable use and the proposal will not increase flood risk at the site or elsewhere. The sequential test to development is not required as set out in footnote 56 of the NPPF having regard to the scale and nature of the development proposed.

## 5.0 Description of Site

The site is situated on the beach between a helter-skelter and other rides to the north and Donkey rides to the south. It lies at the southern end of Weymouth Seafront opposite no 43 The Esplanade close to various attractions and commercial premises including bars, restaurants and cafes. The Boat kiosk has the appearance of an up-turned boat and is one of a pair of similar buildings erected at the time. There is an existing decking area at The Esplanade level extending around the building which provides access to further serving hatches on the beach-side of the building and steps down to the beach level. The site is within Weymouth Town Centre Conservation Area and the beach area to the east is within Flood Zone 3 and at risk of tidal flooding.

## 6.0 Description of Development

The proposed new decking is timber and would project 4m from the eastern section of the existing decking and “square-off” the current irregular shape to provide additional seating for the existing kiosk / cafe and decking constructed as part of the Seafront Regeneration Project undertaken by Weymouth and Portland Borough Council.

## 7.0 Relevant Planning History

10/00118/FUL3 - Decision: GRA - Decision Date: 22/09/2010  
Arrangement and design of beach attractions and kiosks

11/00186/FUL - Decision: GRA - Decision Date: 06/04/2011  
Erect 2 kiosks with external decking

10/00797/FUL - Decision: GRA - Decision Date: 12/01/2011  
Erect 2 kiosks with external decking

## 8.0 List of Constraints

Within the Weymouth Town Centre Conservation Area and setting of Grade II Listed Building: Promenade Shelter Opposite Bond Street (distance: 24.32m) (statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990).

Dorset Council Land (Freehold)

Special Area of Conservation (SAC) (5km buffer): Chesil & The Fleet.

Site of Special Scientific Interest (SSSI) (400m buffer): Portland Harbour Shore.

Flood Zone 2.

Areas Susceptible to Groundwater Flooding; Clearwater and Superficial Deposits Flooding.

## 9.0 Consultations

All consultee responses can be viewed in full on the website.

### Consultees

#### 1. Weymouth Town Council

- This planning application has been considered by members of the Planning and Licensing Committee. The Council has no objection to the proposals.

#### 2. DC - Conservation Officers

- The application site forms one of two set designed pieces for the Seafront Regeneration Project led by Weymouth and Portland Borough Council, and subsequently approved in 2011. Located on the beachfront to the East of the Esplanade, the site is surrounded by designated assets and is set within Weymouth Town Centre Conservation Area.
- Proposal will greatly enlarge the existing dining area and cause an imbalance to the current symmetrical design it shares with its sister site to the north. These two sites were established within a detailed contextual analysis for the Weymouth Seafront Generation Design Guide for which the public were consulted on.

- The Esplanade provides ample seating around the immediate vicinity of the Kiosk and therefore questions are raised over its need, and subsequent public benefit. From a design perspective, the proposal fails to accord with paragraph 130 of the NPPF in particular sections a), b), c), and d) due to its unsympathetic, unbalanced design that fails to enhance the area.

#### 4. Dorset Council assets and Property

- No comments received.

#### 5. Weymouth Ward Members

- No comments received.

#### Representations received

Total - Objections	Total - No Objections	Total - Comments
None	None	2

- This popular facility needs additional space and importantly the owners should be rewarded with being able to make additional profits during the busy months since they remain open 12 months of the year when customer numbers are limited.
- The extra provision for seating will further enhance this iconic venue on the seafront securing extra jobs for local youngsters.

Petitions Objecting	Petitions Supporting
None	None

## 10.0 Relevant Policies

### Development Plan

Adopted West Dorset Weymouth and Portland Local Plan 2015:

- INT1 - Presumption in favour of Sustainable Development
- ENV1 - Landscape, seascape & sites of other geological interest
- ENV2 - Wildlife and habitats
- ENV4 - Heritage assets
- ENV5 - Flood risk
- ENV10 - The landscape and townscape setting
- ENV 12 - The design and positioning of buildings
- ENV 16 - Amenity
- SUS2 - Distribution of development
- ECON5 - Tourism attractions and facilities

## Neighbourhood Plans

Weymouth Neighbourhood Plan - In preparation – limited weight applied to decision making.

### **Material Considerations**

#### **National Planning Policy Framework (2021):**

So far as this application is concerned the following sections and paragraphs are considered relevant.

Paragraph 11 - presumption in favour of sustainable development.

- Section 4. Decision taking: Para 38 - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available...and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
- Section 6 'Building a strong, competitive economy'.
- Section 11 'Making effective use of land'
- Section 12 'Achieving well designed places'. In particular, and amongst other things, Paragraphs 126 – 136 which advise that: The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes. Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.
- Section 14 'Meeting the challenges of climate change, flooding and coastal change'
- Section 16 'Conserving and Enhancing the Historic Environment'- When considering designated heritage assets, great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (para 199). The effect of an application on the significance of non-designated heritage assets should also be taken into account (para 203).

### **Other material considerations**

Weymouth – Town Centre Conservation Area Appraisal adopted December 2012  
WDDC Design & Sustainable Development Planning Guidelines (2009)

## **11.0 Human rights**

Article 6 - Right to a fair trial.

Article 8 - Right to respect for private and family life and home.

The first protocol of Article 1 Protection of property.

This recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

## **12.0 Public Sector Equalities Duty**

12.1 As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove or minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the Public Sector Equalities Duty.

12.2 The design proposals provide for an enhanced shared space to service the ‘Boat’ kiosk with safe & suitable access.

12.3 Having regard to the information provided in the current application, as well as policy requirements, consultation responses received and the recommended conditions; it is satisfied that the proposed development:

- (i) would help to advance equality of opportunity;
- (ii) would assist in fostering good relations; and
- (iii) would have no material adverse impact on individuals or identifiable groups with protected characteristics.

## **13.0 Financial benefits**

To provide additional decking for customers that will aid the viability of an existing local business.

## **14.0 Climate Implications**

None of significance.

## **15.0 Planning Assessment**

## Principle of development

The proposals are located on the beach front within Weymouth Town Centre where they are supported in principle under Local Plan policy SUS2ii.

## Heritage and Design

As required by Section 72 of the Planning (Listed Buildings and Conservation areas) Act 1990 the local planning authority, in considering whether to grant planning permission for the proposed works, has paid special attention to the desirability of preserving and enhancing the character or appearance of the Conservation Area as follows. Part i) of Local Plan policy ENV4 requires the impact of development on a designated or non-designated heritage asset and its setting to be thoroughly assessed against the significance of the asset and that development should conserve and where appropriate enhance the significance. The remaining parts of the policy come into effect only where applications affect the significance of a heritage asset or its setting.

With regards to these provisions and the Conservation Officer's comments, they do not make reference to policy ENV4 only parts a)-d) of paragraph 130 of the NPPF, in relation to which the position is as follows: a) The proposal is for a decking extension at beach level that is appropriate to its location and the overall quality of the area, b) it is a low level feature with limited associated visual impact and c) is sufficiently sympathetic to local character and d) would maintain the existing sense of place. The reasons for these conclusions are provided below.

The small extension retains the width of the existing decking and does not change the design of the existing building. Proposed materials will match the existing decking and are sympathetic to their beach location.

The Boat and The View are two kiosks a considerable distance apart with other beach facilities between them for much of the year, such that a minor difference in the decking would not be visually significant, particularly as the decking would be at a lower level.

The projection of 4 m is not excessive in comparison to the adjacent beach facilities which have expanded in height and extent since the kiosk was built. The previous application and Seafront Regeneration Project were over 10 years ago, and the Esplanade and seafront have altered since that time.

The low level of the proposed decking set against the existing building and decking will not interrupt key views.

The proposal would therefore maintain the existing sense of place on Weymouth sea front and cause no harm to the significance of the Weymouth Town Centre Conservation Area (designated heritage asset) or the setting of the listed Promenade Beach Shelter and accords with Local Plan policy ENV4 of the West Dorset, Weymouth & Portland Local Plan (2015).

## Economic Benefits

The application is proposed to support and expand an existing business by providing an improved seating area for customers which would be of benefit to the local economy. The proposal is therefore supported under Local Plan policy ECON5i) which states that proposals for new, or extensions to, tourism attractions and facilities will be encouraged and supported, particularly where they would inter alia, enhance an existing attraction or facility or increase the quality and diversity of the tourism offer in the local area and benefit the local economy.

## Flood Risk

Local Plan policy ENV5 requires that in assessing proposals for development in an area with a medium or higher risk of flooding, there should be no reasonably available alternative sites with a lower probability of flooding and that adequate measures will be taken to mitigate the risk and ensure that potential occupants will be safe, including measures to ensure the development is appropriately flood resilient and resistant; and safe access and escape routes are provided where required. Although the site lies within Flood Zone 3, the application is seeking permission for a small extension to the decking associated with an existing kiosk. Since this is less than 250 sqm the sequential test and exception tests do not need to be applied and since the existing café use is a less vulnerable use the conclusions reached in the submitted FRA are agreed with and that despite being within a flood zone the proposal will not increase flood risk at the site or elsewhere.

## **16.0 Conclusion**

The proposals are supported in principle under Local Plan policy SUS2ii and ECON5 and although the Conservation Officer has expressed concerns, the proposed decking is low level with limited associated visual impact, and it is considered that any perceived adverse impact in terms of asymmetry with the other kiosk to the north would not be so significant as to outweigh the benefits to the local economy or cause harm to the character of the Conservation Area or the setting of the nearby listed building. This conclusion has been reached having regard to: (1) s 66(1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 that requires special regard to be paid to the desirability of preserving or enhancing the setting of Listed Buildings; (2) Local Plan policy and (3) NPPF.

## **17.0 Recommendation**

Grant planning permission, subject to conditions:

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

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



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

2022 005 01

2022 005 02

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

3. The timber to be used for the decking extension hereby approved shall be similar in colour and texture to the existing decking.

Reason: To ensure a satisfactory visual appearance of the development.