



Appeal Decision

Site visit made on 2 February 2026

by **Robin Buchanan BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date 27 March 2026

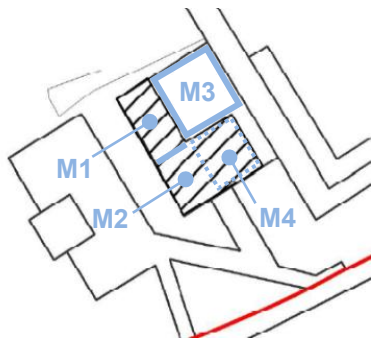
Appeal Ref: APP/V1260/C/24/3337488

The Boathouse, 9 Quay Road, Christchurch BH23 1BU

- The appeal is made under section 174 of the Town and Country Planning Act 1990, as amended (the Act).
- The appeal is made by Mr Richard Slater against an enforcement notice issued by Bournemouth Christchurch and Poole Council.
- The notice was issued on 22 December 2023.
- The breach of planning control as alleged in the notice is in the approximate position marked by black hatching, the erection of marquee structures.
- The requirements of the notice are to:
 - (a) Permanently remove all marquees from the land.
 - (b) Following compliance with (a) above remove all the resulting materials from the land affected.
- The period for compliance with the requirements is: one (1) month.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (c) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed; the enforcement notice is upheld and planning permission is refused.

Preliminary Matters

1. The enforcement notice relates to the land and premises shown edged red in the plan attached to it (the land). It comprises a restaurant and bar, known as the Boathouse, with associated outdoor spaces. The notice pursues the erection of marquee structures on the land.
2. When the notice was issued, two marquee structures on the land were located specifically in the area hatched black in the notice plan, at the back of the Boathouse (the hatched area). These marquees each had a pitched, gable ended roof, as is shown in some December 2023 Council photographs. I refer to these marquees as M1 and M2, which I have indicated on the extract of the notice plan opposite.
3. I understand that since the notice was issued:
 - M1 and M2 have been removed, so the notice is complied with to this extent but not discharged. Section 181(1) of the Act provides that the notice has permanent effect against the erection of marquee structures on the land. The appeal was not withdrawn, so it still falls to be determined. Success on either ground of appeal may lead to the notice being corrected or quashed.
 - A lawful development certificate (LDC) has been issued to the effect that a marquee on the land, that I saw at my site visit next to the hatched area, is

lawful (M3 in the above plan)¹. The LDC contains two typos – it refers to ‘conditions’ when it should say ‘reasons’ and to Schedule 2, Part 1, paragraph E(a) instead of Schedule 2, Part 2, Class G of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), as the Council’s officer report shows it should have done. Though M3 is on the land and the notice refers to marquee structures (plural), it benefits from this LDC.

- Planning permission has been granted for a marquee on about half of the footprint of M2². Condition 4 therein means this marquee (M4 in the above plan) shall be erected annually only between 23 November and 7 January, not that the permission is temporary. It is a permanent permission for a seasonal marquee, not in situ at the time of my site visit outside of this season. Even though M4 would be on the land, in the hatched area, and the notice pursues marquee structures, section 180(1) of the Act provides that the notice shall cease to have effect insofar as it is inconsistent with this permission.
4. I saw another structure at the front of the Boathouse, which may or may not be a marquee. It is on the land but not in the hatched area and has not been addressed in the evidence before me. I shall therefore treat it as outside the notice in this appeal, with its lawfulness or planning merits a matter for the main parties.
 5. In light of the above, the appeal essentially relates to the now proposed marquee structures M1 and M2.

Ground (c)

6. Ground (c) is that the matters stated in the notice, meaning the erection of marquee structures on the land, do not constitute a breach of planning control. For ground (c) to succeed, the onus is on the appellant to demonstrate, on the balance of probabilities, that the erection of M1 and M2 would not be development, or already have planning permission, thus not constitute a breach of planning control.
7. I have not been provided with plans for M1 or M2 and I was unable to see either because they had been removed. I have, therefore, determined the appeal on the basis that the width and length of M1 and M2 are dictated by the size and shape of the hatched area, with each structure apportioned as appears evident in the Council’s photographs, including height, form and materials being similar in these regards to M3 or M4.

Development

8. The nub of the dispute is whether the erection of M1 or M2 would constitute development by building operations that required planning permission for the purposes of sections 55(1) and 57(1) of the Act. That would be the case if M1 or M2 amount to a building³ and is largely a matter of fact and degree, with relevant caselaw having established three primary factors – size, physical attachment and permanence. No one factor is necessarily decisive.
9. As I saw for M3, with no built-in floor and a largely skeletal composition of metal frames (like scaffolding) covered with heavy duty white or transparent PVC

¹ 8/24/0094/CLP

² 8/24/0793/FUL

³ Section 336 of the Act provides that a building includes any structure or erection

sheeting, there is little evidence that M1 or M2 would or could be brought onto the land wholly or partly pre-assembled. It is more likely than not that they would be of such a design and size as need to be erected on the land by construction from these constituent components. Indeed, the appellant says Boathouse staff have done this in the past.

10. Also as for M3, there is little to counter that cabling and other internal paraphernalia could easily be removed from M1 and M2. Similarly, the frames would rest on existing timber decking under their own weight. But the sheeting would be tethered by straps to metal eyelets screwed into the decking at close intervals, important to the overall rigidity or integrity of the marquee structures. Consequently, although the decking is not a permanent base (like a concrete slab or footings) and the straps would be relatively simple to remove, and that M1 and M2 would not directly alter the nature of the ground itself, this method of secure anchorage would result in necessary physical attachment while M1 and M2 were in situ.
11. The appellant claims that Boathouse staff construct or dismantle marquees 'in a matter of hours', while the Council maintains this has only been achieved 'swiftly' using skilled tradespersons. Be that as it may, it is not clear to me how often M1 or M2 would be moved by dismantling and reconstruction, which would anyway be a somewhat arduous task if frequently. Given that M1 and M2 would allow all-weather use of this part of the decking, I have not been informed that there would be any time of the year when these marquees would not benefit the business. There is little else to suggest that routinely removing M1 or M2 would be likely. In which case, M1 and M2 would result in a distinctly different enclosed indoor space compared to the open decking. While permanence does not necessarily mean forever or indefinitely, there is little evidence that M1 or M2 would be fleeting or transient on the land, but instead have tangible, enduring presence.
12. Considering all of the above, as a matter of fact and degree, the erection of marquee structures M1 and M2 would involve building operations and result in buildings, so be development that requires planning permission.

Planning permission

13. The Council found M3 to be lawful on the basis that under Article 3(1) and Schedule 2, Part 2, Class G of the GPDO, planning permission is granted for the provision of one moveable structure within the curtilage of a building used, as in this case, for a purpose set out in Article 3(6)(p) or (q) or Schedule 2, Part A, Class E(b) of the Town and Country Planning (Use Classes) Order 1987, as amended⁴. In the absence of evidence to the contrary, that permission is most likely spent on M3. Furthermore, M4 is lawful so long as it complies with the terms and conditions of the planning permission granted for it.
14. There is, therefore, little evidence that the erection of M1 or M2 would be granted planning permission under the GPDO. Nor that planning permission has been granted for a marquee in the position of M4 at times of the year excluded by condition 4. I have not been informed that express planning permission has been granted for M1 or M2.

⁴ Article 3(6)(p) a public house, wine bar, or drinking establishment and (q) a drinking establishment with expanded food provision; Class E(b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises

Conclusion on Ground (c)

15. The appellant has therefore not demonstrated, on the balance of probabilities, that the erection of marquee structures M1 and M2 would not be development or already have planning permission, thus has not shown that they would not constitute a breach of planning control. As a result, ground (c) fails.

Ground (a)

16. Ground (a) is that planning permission ought to be granted for the erection of marquee structures on the land. I shall consider this on the basis that the notice was issued in the context of M1 and M2, with part of M2 in the same position as M4 but bigger overall and M4 as a fallback position on a seasonal basis.
17. In the first instance, planning permission is sought for M1 and M2 on a permanent and year-round basis. Although there are no plans before me for M1 or M2, I could impose conditions, including a standard condition to require the subsequent submission and approval of details of these structures or for seasonal use of one or the other or both. Because M1 and M2 could be two distinct, severable structures I could consider a split decision⁵. The permanent presence of M3 is also part of the context and it can remain on the land whatever the outcome of the appeal.
18. The main parties had an opportunity to comment on the revised National Planning Policy Framework published in December 2024 and amended in February 2025 (the NPPF). Comments were received from the Council, which I have taken into account. None were received from the appellant.

Main Issues

19. The land is in a Conservation Area, which includes some listed buildings, and is at risk of flooding. It is also in the Green Belt. The main issues are therefore:
- the effect of M1 and M2 on designated heritage assets comprising Christchurch Central Conservation Area and relevant listed buildings;
 - whether M1 and M2 would protect people and property from flooding;
 - whether M1 and M2 would be inappropriate development in the Green Belt, including effect on the openness and purposes of the Green Belt, having regard to the NPPF and relevant development plan policy; and
 - whether other considerations clearly outweigh the harm to the Green Belt and any other harm so as to amount to very special circumstances.

Reasons

Designated Heritage Assets

20. Christchurch Central Conservation Area (the CA) largely comprises the original historic town. This designated heritage asset includes a variety of main buildings, though mostly of traditional design, form or materials. The significance of this part of the CA also includes a swathe of public open space alongside the River Stour, known as The Quomps⁶. This flat, mainly grassed area with some mature trees is locally distinctive, forming a largely undeveloped backdrop and setting to built form

⁵ Section 177(1) of the Act

⁶ Christchurch Central Conservation Area Appraisal & Management Plan September 2005 – Character Area 5

in this part of the town. The openness of this part of the CA and views across it therefore make a positive contribution to the character and appearance of the CA; as does a large part of the land (including the hatched area) for these same reasons, which is next to The Quomps.

21. A bandstand (Grade II listed building) in The Quomps, near the Boathouse, complements this public realm and the Priory Church (Grade I listed building), not far away on rising ground, is a prominent local focal point, especially its tower. Both of these designated heritage assets make a positive contribution to the significance of the CA, with the CA in turn enhancing the setting and significance of these listed buildings.
22. Though M1 and M2 would not jut out beyond the confines of the hatched area or significantly close important gaps to nearby built form, they would be large enough to materially reduce openness and restrict or intrude into short and longer distance public views from within the CA, including conspicuous in colour. Though M3 and M4 (seasonally) are already an established feature on the land, the additional proliferation of ancillary 'affixed' structures M1 and M2 at the Boathouse would further detract from the traditional design, form and materials of the original building. Additionally, M1 and M2 would unduly consolidate this type of structure on the land, which is not prevalent in this part of the CA.
23. M1 and M2 would have no significant close juxtaposition or direct intervisibility with either listed building, so not undermine the visual and spatial association of the Bandstand to land in The Quomps immediately around it or of Priory Church to the church yard immediately around it or as a landmark. Since there would be no harm to, or loss of, the significance of these designated heritage assets, the neutral effect of M1 and M2 on the special architectural and historic interest of the Bandstand and Priory Church would preserve these listed buildings and their settings⁷. In turn, maintain their contribution to the character and appearance of the CA.
24. However, by virtue of effect on openness and views and innate built form, the negative presence of M1 and M2 would not preserve the character or appearance of this part of the CA, or the CA overall⁸. Consequently, they would not comply with Policy BE4 of the Borough of Christchurch Local Plan March 2001 (the LP) or Policy HE1 of the Christchurch and East Dorset Core Strategy April 2014 (the CS). These include that development in Conservation Areas should protect open spaces important to the character or historic value of the area and complement existing buildings in siting, design, form and materials so as to protect the historic environment that contributes to the distinct identity of Christchurch market town.
25. As required by NPPF paragraph 213, I weigh this finding against the public benefits of M1 and M2 elsewhere below.

Flooding

26. Some of the land is located in Flood Zone 2 and some is in Flood Zone 3 where there is, respectively, medium or high annual probability of flooding. M1 and M2 would be minor development, so unlikely to raise significant flood risk issues and should not be subject to the 'sequential' or 'exception' tests. But minor development can still affect flood risk within or beyond a property, particularly as in this case in

⁷ Section 66(1) - Planning (Listed Buildings and Conservation Areas) Act 1990, as amended

⁸ Section 72(1) - Planning (Listed Buildings and Conservation Areas) Act 1990, as amended

areas already susceptible to flooding⁹. I also note that NPPF Annex 3 classifies buildings used for drinking establishments as 'more vulnerable' to flood risk.

27. Any development which is necessary in Flood Zone 2 or 3 (in the sense that this is where the Boathouse is located) should be made safe for its lifetime without increasing flood risk elsewhere¹⁰. This needs to be demonstrated by a site specific flood risk assessment (SSFRA)¹¹. In this regard, the appellant alleges that a small footprint, raised decking and temporary nature of M1 and M2 'will not give rise to flood risk'. But a SSFRA should address all criteria (a) to (e) in NPPF paragraph 181:

- (a) There is little evidence that M1 and M2 would be located in the lower risk Flood Zone 2. Nor that the higher risk Flood Zone 3 is the only place for them, but if it is there is no apparent overriding reason for such a location.
- (b) The decking is raised above ground level so M1 and M2 could be more flood resistant and resilient structures. Thus safer for people to use and help protect this property, including because M1 and M2 could be removed and quickly brought back into use without significant refurbishment.
- (c) The gaps between decking boards help to disperse rainwater to ground. M1 and M2 would cover the gaps and it is likely that impermeable PVC sheeting over pitched or curved roofs would exacerbate run-off rates or risk localised deluge or inundation. The appellant has not suggested a sustainable drainage system or objectively shown why one would not be needed.
- (e) M1 and M2 would likely facilitate more people on this part of the land at later times of the day and year round. Floods can be sudden and albeit a snapshot, I saw at my site visit evidence of the River Stour having breached its banks and flowed across The Quomps, including towards the Boathouse. I have not been informed about safe access or escape routes on the land and how these might apply to M1 and M2, nor if there is an emergency plan in these regards.
- (d) Notwithstanding (b), given (a), (c) and (e), there is little else to substantiate that any residual flood risk could be safely managed.

28. Details of flood risk, including if suitable and appropriate measures to manage or mitigate flooding are possible, and in what form, is relevant to an in principle decision to grant planning permission for M1 and M2. Consequently, these details cannot be left to a condition.

29. I am not, therefore, satisfied the appellant has shown that M1 and M2 would protect people and property from flooding, so not cause harm in these regards. In these circumstances, M1 and M2 would be contrary to CS Policy ME6. It includes that proposed development must show that flood risk does not increase, with options to reduce flood risk and details of flood resistance and resilience measures.

Inappropriate Development

30. NPPF paragraph 154 sets out that development in the Green Belt is inappropriate unless a relevant exception applies. The main parties identified some potentially relevant exceptions which I now consider.

⁹ PPG paragraph 051

¹⁰ NPPF paragraphs 170 and 181

¹¹ NPPF footnotes 62 and 63

31. Paragraph 154(b) – M1 and M2 would essentially add further indoor space for the primary use of the land as a restaurant and bar, which is a distinctly different use to outdoor sport or recreation. The mini ‘crazy’ golf course on part of the land is incidental to this primary use of the Boathouse.
32. The land already contains M3 and the hatched area includes M4 seasonally, plus decking with balustrades and paraphernalia such as seating and tables. However, M1 and M2 have been removed, so without significant built-form on it, this part of the land is now correspondingly more open and maintains this part of the Green Belt. There is little to off-set the addition of M1, and M2 would be a larger (about twice the size) replacement of M4. As a result, more of the land would be enclosed by M1 and M2, so no longer be open in any equivalent or comparative sense, with significant three-dimensional physical and visual presence in plain public view.
33. Furthermore, albeit in a small way, M1 and M2 would not restrict the sprawl of the large built-up area of Christchurch or preserve the setting and special character of this historic part of the town.
34. Consequently, M1 and M2 would not be an appropriate facility for outdoor sport or recreation. Nor would they preserve the openness of the Green Belt, which is one of its essential characteristics¹², or maintain all five purposes of including land within the Green Belt¹³. As a result, this exception does not apply.
35. Paragraph 154(c) – M1 and M2 would, in effect, extend the Boathouse. Given the Council’s undisputed floorspace figures, and that M3 and M4 (seasonally) can lawfully remain on the land, M1 and M2 would result in disproportionate additions over and above the size of the original (Boathouse) building. This exception does not therefore apply.
36. Paragraph 154(g) – Some of the land has been lawfully developed, including with the Boathouse and the decking, which is within the curtilage of a permanent structure (the original building). But the decking occupies a relatively small part of the land, especially in the hatched area, and is limited in form or extent compared to other development on the land or the largely undeveloped, landscaped mini-golf part of it. Nor is this decking a permanent structure (like a concrete or tarmac surface) and it has not significantly altered the ground physically (such as with a solid foundation or footings). The decking is not, therefore, a hardstanding or a large area of fixed surface infrastructure for the purpose of the NPPF definition of previously-developed land (PDL)¹⁴.
37. Consequently, even though M1 and M2 would not cause substantial harm to the openness of the Green Belt, they would not be erected on PDL so this exception does not apply.
38. Paragraph 155 – M1 and M2 would be used for a commercial purpose in a sustainable location. However, there is little evidence of a demonstrable unmet need for this type of development. Furthermore, the application of NPPF policies relating to areas or assets in NPPF footnote 7 (in this case relating to designated heritage assets and areas at risk of flooding) provide a strong reason for refusing M1 and M2. Consequently, even though the hatched area does not strongly

¹² NPPF paragraph 142

¹³ NPPF paragraphs 143(a) and 143(d)

¹⁴ NPPF Appendix 2: Glossary

contribute to any of Green Belt purposes (a), (b), or (d) in NPPF paragraph 143, the land is not grey belt. Accordingly, this exception does not apply.

39. Considering all of the above, I find that M1 and M2 would be inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances¹⁵. These will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations

Other Considerations and Public Benefits

40. Although I do not have copies, I note that the development plan has policies in respect of shops and community facilities and services. M1 and M2 would likely be valued by patrons and generate some new business. This would help to sustain the vitality and viability of a local community and the Boathouse; in turn, the local economy. These economic and social outcomes would align with aims of the NPPF to help businesses to invest, expand and adapt. As the NPPF sets out, I give significant weight to the need to support economic growth, taking into account that the appellant evidently considers there is a need for M1 and M2 in the Boathouse business¹⁶. The NPPF also seeks to promote social interaction and provide social facilities and services the community needs, including public houses¹⁷.
41. Nevertheless, the Boathouse is a large premises and already supported by M3, M4 and the decked area. There is little objective evidence to show that the public benefits of M1 and M2 would by comparison be anything other than modest, so these considerations have moderate weight in support of the appeal.

Other Matters

42. There is evidence of noise complaint from people living nearby due to the Boathouse in use. M1 and M2 would stretch closer to some of these residential properties. Not being sealed or solid structures, with little intrinsic sound attenuation, noise from activity inside M1 or M2 could escape at times when residents generally anticipate less intrusion, such as weekends or evenings. But there is no apparent reason why a condition, such as suggested by the Council's Environmental Health Officer, could not require a noise management plan, including details of noise mitigation, to be submitted, approved then implemented to ensure satisfactory living conditions and avoid harm in this regard. The Council took this approach in granting planning permission for M4, which is not significantly more distant from these residential properties. On this basis, noise is a neutral factor in my decision.
43. I have had regard to all of the conditions suggested by the Council and other conditions that may be relevant. However, and though not the basis of the ground (a) deemed application, even if taking only one or the other of M1 or M2, or if either or both were restricted to seasonal presence by a condition, I am satisfied that conditions would not overcome the fundamental objections while one or the other or both of these marquees were on the land. This also means that a split decision is not warranted in this case.

¹⁵ NPPF paragraph 153

¹⁶ NPPF paragraph 85

¹⁷ NPPF paragraphs 96 and 98

Heritage, Green Belt and Planning Balances

44. Notwithstanding no harm to the relevant listed buildings or their settings, M1 and M2 would cause less than substantial harm to the significance of the CA and this development is without clear and convincing justification¹⁸. Despite the fallback position of M4 (albeit seasonally), M1 and M2 (with M2 notably larger than M4) would be inappropriate development in the Green Belt; as set out in the NPPF, I give substantial weight to the significant harm to the Green Belt caused by the inappropriate development¹⁹. M1 and M2 would be a risk to people and property from flooding and this consideration adds further notable weight against granting planning permission.
45. The modest public benefits of M1 and M2 do not, therefore, outweigh the less than substantial heritage harm. Furthermore, the other considerations do not individually or collectively clearly outweigh the totality of harm in this case.
46. Accordingly, the very special circumstances necessary to justify M1 and M2 do not exist. In which case, M1 and M2 would be contrary to the relevant provisions of the NPPF for the Green Belt outlined earlier, as well as the Council's broadly consistent aim to contain development in the Green Belt, as set out in CS Policy KS3.
47. There are no other considerations to indicate that ground (a) should be determined otherwise than in accordance with the development plan taken as a whole²⁰. Consequently, for the reasons given above, the marquee structures would be unacceptable and planning permission should not be granted for them.

Conclusion on ground (a)

48. For the reasons given above, ground (a) fails.

Overall Conclusions

49. Given that grounds (c) and (a) both fail, the notice will be upheld and the appeal does not succeed.
50. Despite that M1 and M2 have been removed, the notice is not discharged and it otherwise has continued effect against the erection of marquee structures on the land. However, while the appellant does not claim it is excessive to require the removal of M3 or (when present) M4, the notice cannot purport to take away lawful development. In this respect it does not remove Class G permitted development rights which render M3 lawful and section 180(1) of the Act means the grant of planning permission for M4 overrides the notice (it ceases to have effect) insofar as it is inconsistent with this permission.

Formal Decision

51. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Robin Buchanan
INSPECTOR

¹⁸ NPPF paragraph 213

¹⁹ NPPF paragraph 153 (M1 and M2 would not be on PDL or grey belt land so footnote 55 is not engaged)

²⁰ Section 38(6) – Planning and Compulsory Purchase Act 2004, as amended