

Officer Report to Committee

Application ref: 21/0234
Ward: Bloomfield
Application type: Full
Location: Land adjacent to Central Pier, Promenade, Blackpool, FY1 5BB
Proposal: Retention of single storey building, canopy, decking, and boundary treatment and use of premises as a bar and external seating area.
Meeting date: 11 October 2022
Recommendation: Refuse
Case officer: Bethany thornton
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1.0 BLACKPOOL COUNCIL PLAN 2019-2024

- 1.1 The Council Plan sets out two priorities. The first is ‘the economy: maximising growth and opportunity across Blackpool’, and the second is ‘communities: creating stronger communities and increasing resilience.
- 1.2 This application would result in the creation of a new bar and so would facilitate economic growth for the applicant and site but, when considered in the context of the borough and its regeneration and economic aims, could undermine economic growth by undermining the Council’s wider strategy and town centre focus. The scheme would also undermine the comprehensive improvement of the Promenade and seafront area by prejudicing the implementation of public realm improvements which the seafront is safeguarded for.

2.0 SUMMARY OF RECOMMENDATION

- 2.1 The application proposes the development of a bar in an edge-of-centre location and within the Central Promenade and Seafront designation which is safeguarded for public realm improvements such as sea defences, transport improvements, landscaping, public amenities and ancillary small-scale retail outlets. The development would be piecemeal and not ancillary to existing tourist attractions. It is contrary to policy and detrimental to the Council’s regeneration efforts concerning the sea front, Promenade and Town Centre.
- 2.2 The scheme would have a detrimental impact on the character of the area and heritage assets and their setting as the design of the scheme is not of a standard considered appropriate for such a prominent and sensitive location and does not integrate well with or enhance its surroundings.
- 2.3 As such, the recommendation for this application is for refusal.

3.0 INTRODUCTION

- 3.1 This application is before Members because it is in a very prominent position on the Promenade and is of general public interest.

- 3.2 This application was last heard at the August 2021 Planning Committee and following publication of the committee report, the applicant submitted a Counsel's opinion to be considered with the application. The Counsel's opinion was addressed by the Council in the committee Update Note at the August 2021 Planning Committee and at that same Committee the applicant's representative also raised a number of comments in response to the Council's Update Note. It was considered that, in order allow all parties a reasonable amount of time to consider the information, that the application should be deferred to a later Planning Committee.
- 3.3 Since the August 2021 Planning Committee, the applicant has submitted a written response to the Council's heritage assessment to be read in conjunction with the original heritage statement. Confidential financial information has also been provided to demonstrate that North Pier requires extensive remedial repair work, and that the income from the Terrace Bar is important to fund these works.
- 3.4 The Council has sought its own Counsel's opinion on the applicant's comments and the financial information has been considered by a viability consultant. In order to simplify proceedings an updated report has been produced for this meeting.

4.0 SITE DESCRIPTION

- 4.1 The application relates to land on the Promenade on the western side of the tram tracks and immediately adjacent to Central Pier. The site is to the north of the Pier and is approximately 344sqm, set back from the front of the pier building behind an area which is often occupied by inflatables and temporary pop-up structures. The site currently consists of single storey container units forming a bar, storage rooms and toilets, and external seating area on raised decking with a canopy and area for live entertainment. This has been developed roughly along the following timeline based on historical Google Maps images and enforcement visits to the site:
- July/August 2017 – A portable bar erected with licensing permission.
 - February - June 2018 – Containers installed and decking erected and completed by August 2018.
 - September 2018 – An enforcement case logged for use of the land for siting of outdoor bar, bouncy castle, and hot air balloon.
 - August 2019 – Canopy erected and Planning Enforcement informed the Piers that planning permission would be required for the current development.
 - March 2021 – Application for planning permission for erection of single storey building, canopy, decking, and boundary treatment and use of premises as a bar and external seating area.
- 4.2 The site falls within the Resort Core and the Central Promenade and Seafront designation, and is adjacent to the designated Coast and Foreshore. It is also within Flood Zone 3, the Airport Safeguarding Consultation Area and the area covered by the Promenade Article 4 Direction. The site is also adjacent to Central Pier which is locally listed is in close proximity to the locally listed Huntsman building and the Foxhall Conservation Area.

5.0 DETAILS OF PROPOSAL

- 5.1 The application seeks retrospective planning permission for the use of the site as an outdoor terrace bar. The scheme includes four enclosed structures forming the bar itself, storage, and toilets. The rest of the site is occupied by raised decking for external seating.

5.2 The application has been supported by:

- Planning Statement
- Heritage Statement
- Flood Risk Assessment
- Sequential Appraisal

6.0 **RELEVANT PLANNING HISTORY**

- 6.1 **17/0747** – Use of land for an 18 hole themed adventure golf course including the erection of an associated ticket office, pump room and 2.4m high palisade boundary fencing.
Granted: High quality tourism attraction within the resort core.
- 6.2 **16/0213** – Erection of a single storey building with canopy to house public toilets and lost child facility/commercial unit and external seating areas.
Granted: Provides visitor facilities appropriate to the character and function of this section of the promenade.
- 6.3 **14/0796** – Use of land for an 18 hole themes adventure golf course including the erection of an associated ticked office, pump room and 2.4m high palisade boundary fencing.
Granted: High quality tourism attraction within the resort core.
- 6.4 **14/0618** – Use of land for temporary siting of ‘Starflyer’ ride. Withdrawn
- 6.5 **14/0452** – Erection of a single storey building comprising toilet facilities and retail unit with ‘lost children’ area, formation of external seating area, and associated landscaping.
Granted: Provides visitor facilities appropriate to the character and function of this section of the promenade.
- 6.6 **14/0005** – Erection of a single storey building comprising toilet facilities and retail unit, formation of external seating area, and associated cycle parking and landscaping.
Withdrawn.
- 6.7 **13/0515** - Use of land to the south of pier for the siting of a go kart track and use of land to the north of pier for the siting of a ‘star flyer’ attraction with associated development until 31 October 2013.
Withdrawn

Enforcement

- 6.8 **22/8110** - Erection of terrace bar adjacent to Central Pier. Duplicate of existing case.
- 6.9 **21/8197** – Erection of terrace bar. Duplicate of existing case.
- 6.10 **18/8363** – Use of land for siting of outdoor bar, bouncy castle, and hot air balloon. Open Case.

7.0 **MAIN PLANNING ISSUES**

7.1 The main planning issues are considered to be:

- the principle of development
- visual impact

- heritage impact

8.0 CONSULTATION RESPONSES

- 8.1 **Head of Highways and Traffic Management** – The proposal would not have a material effect on the passage of pedestrians or vehicles. No objections in principle subject to the provision of a proportionate service management plan and a construction management plan demonstrating agreement with the Council for utility and drainage connections, vehicular access and plant access, storage and plant operations, and including a dilapidation survey.
- 8.2 **Council Drainage Officer** – The Flood Risk Assessment provided is acceptable. The standard drainage conditions (WATA and WATM) should be applied.
- 8.3 **Built Heritage Manager** – Central Pier is locally listed and is opposite the locally listed Huntsman building and the boundary of the Foxhall Conservation Area along Chapel Street. Whilst there would be no objection to a temporary pop-up outside bar with removable features, the design and materials which have been used in the permanent structures are poor and undermine the character of the pier and its setting. Therefore, refusal is recommended.
- 8.4 **Blackpool Civic Trust** – The application affects the open aspect of the Promenade. There are already concessions in front of Central Pier which make traversing the Promenade to the sea dangerous and difficult. Allowing a permanent structure to be erected is contrary to policy and will open the Promenade to other similar applications. The application should be firmly rejected and the planning guidelines enforced.
- 8.5 **Environmental Protection (Amenity)** – Based on the number of complaints in relation to various activities at the piers, a noise assessment is required. The noise survey condition should be implemented.
- 8.6 **Head of Strategic Asset and Estate** – The extent of the outside public bar must not exceed that land held within the freehold title LA828714.
- 8.7 **United Utilities** – Foul and surface water shall be drained on separate systems based on the drainage hierarchy. Should the application be approved it is strongly recommended that no construction commences until a Section 104 agreement has been accepted in writing by United Utilities. Water mains cross the site and so unrestricted access would be required for operating and maintaining them – development over or in close proximity to the main would not be permitted and an access strip would be required.

9.0 REPRESENTATIONS

- 9.1 Site notice published: 27/04/2021.
- 9.3 Neighbours notified: 23/04/2021.
- 9.4 A representation has been received from 11 Pharos Street.
- 9.5 These representation raises the following issues:

- The development has been carried out without planning permission and it is unfair to business owners who go through the proper channels and expenses for planning permission.
- If the application is approved it would open the floodgates for other similar development in Blackpool.
- The bar is permanent and not a pop up bar.

10.0 RELEVANT PLANNING POLICY

10.1 National Planning Policy Framework

10.1.1 The National Planning Policy Framework was updated in July 2021. It sets out a presumption in favour of sustainable development. The following sections are most relevant to this application:

- Section 6 – Building a Strong, Competitive Economy
- Section 7 – Ensuring the Vitality of Town Centres
- Section 8 - Promoting healthy and safe communities
- Section 11 - Making effective use of land
- Section 12 - Achieving well-designed places
- Section 14 - Meeting the challenge of climate change, flooding and coastal change
- Section 16 - Conserving and enhancing the historic environment

10.2 National Planning Practice Guidance

10.2.1 The National Planning Practice Guidance expands upon and offers clarity on the points of policy set out in the National Planning Policy Framework.

10.3 Blackpool Local Plan Part 1: Core Strategy 2012-2027 (Core Strategy)

10.3.1 The Core Strategy was adopted in January 2016. The following policies are most relevant to this application:

- CS1 Strategic Location of Development
- CS4 Retail and Other Town Centre Uses
- CS6 Green Infrastructure
- CS7 Quality of Design
- CS8 Heritage
- CS9 Water Management
- CS21 Leisure and Business Tourism

10.4 Blackpool Local Plan 2011-2016 (Local Plan)

10.4.1 The Blackpool Local Plan was adopted in June 2006. A number of policies in the Local Plan have now been superseded by policies in the Core Strategy but others have been saved until the Local Plan Part 2: Site Allocations and Development Management Policies has been produced. The following saved policies are most relevant to this application:

- RR1 Visitor Attractions
- RR11 Central Promenade and Seafront
- LQ1 Lifting the Quality of Design

- LQ2 Site Context
- LQ4 Building Design
- LQ5 Public Realm Design
- LQ7 Strategic Views
- BH3 Residential and Visitor Amenity
- BH4 Public Health and Safety
- BH17 Restaurants, Cafes, Public Houses, Hot Food Takeaways
- NE9 The Coast and Foreshore
- AS1 General Development Requirements (Access and Transport)
- AS7 Aerodrome Safeguarding

10.5 Blackpool Local Plan Part 2: Site Allocations and Development Management Policies (emerging policies)

10.5.1 Blackpool Local Plan Part 2: Site Allocations and Development Management Policies has not yet been adopted. It was subject to Examination in Public between 6 and 10 December 2021 and the Inspector issued his comments in March 2022. The Council has just consulted on minor modifications and expects to adopt the document in spring 2023. As such, significant weight can be attached to the emerging policies in accordance with paragraph 48 of the NPPF. The following policies are considered to be most relevant to this application:

- DM10 Promenade and Seafront
- DM15 Threshold for Impact Assessment
- DM17 Design Principles
- DM19 Strategic Views
- DM28 Non-Designated Heritage Assets
- DM31 Surface Water Management
- DM33 Coast and Foreshore
- DM43 Aerodrome Safeguarding

10.6 Other Documents

10.6.1 National Model Design Code (July 2021) provides guidance to promote successful design and expands on the ten characteristics of good design set out in the National Design Guide.

10.6.2 National Design Guide (January 2021) recognises the importance of good design and identifies the ten characteristics that make up good design to achieve high quality places and buildings. The guide articulates that a well-designed place is made up of its character, its contribution to a sense of community and its ability to address the environmental issues affecting climate.

11.0 ASSESSMENT

11.1 Principle

History

11.1.1 The bar has existed in various forms since mid-2017, beginning as a portable temporary bar and developing into a more permanent structure and was fully in place by late 2019. An enforcement case was opened in late 2018 regarding the outdoor bar and records show that, following a site meeting with enforcement officers in August 2019, the pier owners

were advised that the development would require planning permission and further works would be done at their own risk. An improvement notice for a structural survey was served by the Council's Health and Safety Enforcement Team which appears to have been complied with, however no application for planning permission was received at that time. An application for a license to use glasswear at the bar was received in August 2019 and the Council's Licensing team informed the Development Management and Planning Enforcement Team about this, however, as set out above, Enforcement was already aware of the development and were simultaneously corresponding with the owners regarding the need for planning permission.

- 11.1.2 It must be acknowledged that COVID restrictions commenced in March 2020 and that all enforcement resources were focused on COVID compliance. Another enforcement case was opened in May 2021 following a complaint about the development, and another in March 2022, however it is best practice to hold enforcement action in abeyance pending the determination of any planning application or appeal. The planning application was received in March 2021 and was taken to Planning Committee in August 2021, where the Committee chose to defer the decision until additional information could be submitted.

The bar as a tourist attraction

- 11.1.3 Policies CS1 and CS4 seek to direct retail and other town centre uses to the town centre, district centres, and local centres, and section 86 of the National Planning Policy Framework sets out that a sequential test should be applied to planning applications for main town centre uses which are neither in an existing centre or in accordance with an up-to-date plan. The glossary of the National Planning Policy Framework describes the uses which can be considered main town centre uses and includes leisure, entertainment and more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, nightclubs, casinos, health and fitness centres, indoor bowling centres and bingo halls). In accordance with this definition, the proposed scheme is considered a main town centre use located on the edge of an existing designated centre and therefore would only be permitted subject to the criteria set out under section 3 of policy CS4. These criteria are:

In edge of centre and out of centre locations, proposals for new retail development and other town centre uses will only be permitted where it can be demonstrated that:

- (a) It is a tourism attraction located in the Resort Core in accordance with policy CS21; or*
- (b) There are no more sequentially preferable, appropriate sites available for the development; and*
- (c) The proposal would not cause significant adverse impact on existing centres; and*
- (d) The proposal would not undermine the Council's strategies and proposals for regenerating its centres; and*
- (e) The proposal will be readily accessible by public transport and other sustainable transport modes.*

- 11.1.4 The supporting statement submitted with the application states that the proposal meets criteria (a) as the site falls within the Resort Core and is a tourism attraction. Whilst it is acknowledged that the site falls within the Resort Core, the proposed use of the premises is not considered to be a tourism attraction in accordance with policy CS21. The policy sets out that high quality tourism development including ancillary retail and food and beverage uses specifically related to marketing the existing tourism offer will be supported which complements and reinforces the role of these existing important attractions. Whilst the proposed bar would be located adjacent to Central Pier, this does not mean that it is

ancillary to the existing tourist attractions on the pier and is not specifically related to the marketing of those attractions.

- 11.1.5 There is no definition of a tourist or tourism attraction within the local plan; therefore the Council's assessment must take a common sense view when considering the terminology. There is a clear difference between development which may be used by tourists and development which would be considered a tourist attraction. Any public convenience, shop, bar or restaurant within reasonable proximity to the town centre or Promenade has the potential to be frequented by tourists, however this does not mean that it is in itself a tourist attraction. Bars are often frequented by tourists, but in the usual course of things they do not provide the main attraction. The applicant has given the example of a floating bar on a canal/river/dock which has become something of a destination attraction. However, simply because a bar, unusually, may also become a tourist attraction in its own right because of its unique features, this does not mean that any bar frequented by tourists is a tourist attraction. In granting permission for a bar at the application site the Council would be granting permission for the land use and would have no control over which company occupies the development and how they would operate the bar. Adopting the applicant's approach would mean that all land uses used by tourists such as shops and supermarkets could be classed as a tourist attraction, which clearly is not the intention of policy CS4. As the bar is not considered a tourist attraction, policy RR1 relating to visitor attractions does not apply to the development.
- 11.1.6 It is not disputed that the Pier itself is considered a tourism attraction. In the supporting text of policy CS21 it is set out that proposals for high quality tourism related development including ancillary retail and food and beverage uses will be supported which complement and reinforce the role of these existing important attractions, securing their long term future. Firstly, in relying on this paragraph it would imply that the bar itself is not in itself a tourism attraction. Secondly, CS21 only expressly supports development which falls within one or more of the sub categories of the main text, the most relevant here being (c) the improvement and enhancement of important existing tourist attractions. It is set out in the Design and Visual Impact and Heritage sections below why the scheme is not considered to improve or enhance the adjacent pier. Thirdly, the supporting text clearly refers to ancillary uses. In planning terms, a use can only be ancillary to the primary use of the same planning unit. Therefore, if considered ancillary to the pier planning permission would not be being granted for a separate use, but instead only for the physical construction works and the bar would be considered part of the pier. Whilst the proposed bar would be located adjacent to Central Pier, this does not mean that it is ancillary to the existing tourist attraction of the pier and is not specifically related to the marketing of those attractions.
- 11.1.7 In support of the proposal, a survey conducted in June/July of 2021 has been submitted which shows that approximately half the visitors to the bar that completed the survey had also visited/would also visit the Pier that day. This survey has been submitted with the intention to demonstrate an ancillary use in connection with the Pier. However, this does not necessarily reflect that the bar is ancillary to the Pier, it could just as easily reflect its convenient location in close proximity to the Pier. No comparable information is available, but it is highly likely that a large proportion of patrons of nearby food and beverage premises on the eastern side of the Promenade would have visited the Pier as part of their visit to the wider area. The design and layout of the bar itself does not suggest an ancillary relationship with the Pier. It is a clearly a separate unit with the only linking factor being that it is located on land adjacent to and within the same ownership as the Pier. The premises cannot be accessed directly from the Pier and does not integrate successfully with the existing attraction. The only link between the Pier and bar is financial support due to the bar

being under the same ownership as the Pier, and financial support could be generated by any other bar within the same ownership in any other location.

- 11.1.8 It is acknowledged by the applicant that part 3 of policy CS4 is relevant to the application. In accordance with this, proposals may gain support provided they fall within either part (a) or all of parts (b) to (e) of that policy. Given the conclusions reached regarding the status of the proposal as a tourism attraction, the proposal is not considered to fall within part (a).

Main town centre use - sequential test and impact assessment

- 11.1.9 The proposals would therefore need to accord with (b) – (e) in order to gain support from policy CS4. Part 3(b) requires it to be demonstrated that there are no more centrally located/sequentially preferable sites available for development. Due to the nature of the proposal it would be reasonable to focus the area of search on the Town Centre, and flexibility of 10% either way in terms of the floor area should be applied. This means that in this case the search should include alternative sites with an area between 310sqm and 378sqm, and the developer has specified that it should have open external seating space. The appraisal has identified 36 premises listed on Rightmove and has discounted the majority of these because they are not outdoors. However, the applicant has not justified the need for the bar to be open-air and has not demonstrated any degree of reasonable flexibility in this regard. Nevertheless, opportunities such as those on the former Syndicate site and at Blackpool Central for open air bars have not been considered. Should the Council be minded to approve the development it would be necessary to request further consideration of flexibility and assessment of these sequentially preferable sites. As previously discussed, there is no functional or physical link between the Pier and the bar which would preclude the bar being sited within a designated centre. The links cited by the applicant are that it is owned by the same company as the pier, is used by people visiting the pier, and uses income to support repairs to the pier. The owner could open a bar within the town centre and still use revenue to support the pier. That many people who visit the bar have also visited the pier would likely be true for any bar sited in close proximity to the pier and does not necessarily mean they are intrinsically linked and must be sited together. As submitted, the application fails the sequential test.

- 11.1.10 With regard to the remaining criteria set out by policy CS4, the applicant has claimed in their supporting statement that the scheme would comply with (c) and (d) as the scheme provides a bar next to the Pier on the sea front and so would not compete with more traditional 'inside bars' and that the bar fits well with the Pier leisure offer and alongside the Blackpool Central leisure offer. However, this claim is unsubstantiated and does not appropriately consider the impact on existing centres. The bar may have a somewhat different character to many bars in the town centre but it is still a town centre use in an edge-of-centre location. An unjustified approval in this instance would make it harder for the Council to resist similar schemes in similar circumstances which could lead to significant cumulative harm. No detailed assessment of this impact has been provided. With regard to (e), it is not disputed that the site is within a highly accessible location, in close proximity to the tram services. However, to be considered acceptable in principle the scheme must comply with all of the criteria from (b) – (e) which it does not.

Impact on the Promenade

- 11.1.11 Policy RR11 sets out that the Central Seafront from the Pleasure Beach to North Pier will be comprehensively improved and managed as an area for active leisure, in conjunction with the promotion of appropriate investment and development in adjoining Promenade

frontages and the Piers. Improvements will establish a high quality public realm and include limited provision of ancillary small-scale retail outlets, and development that would prejudice the implementation of these improvements or undermine the comprehensive improvement of the Central Promenade/Seafront Area will not be permitted. The development is not a retail use, nor is it particularly small scale. Therefore, even if the bar were to be considered ancillary to the pier, it would still not fall within the provisions of policy RR11. Emerging policy DM10 expands on this principle and states that piecemeal development will not be permitted and, excluding the Piers themselves, new development on land to the west of the tram track will not be permitted other than green infrastructure, essential infrastructure, ancillary shelters, seating, public art, and public realm improvements.

11.1.12 The proposed development would be contrary to these policies and, whilst all applications must be considered on their own merits, an approval in this instance in the absence of robust justification would also make it harder for the Council to resist similar schemes in similar circumstances, and would lead to more significant cumulative harm which would prejudice comprehensive improvements to the Promenade. The applicant's Counsel's Opinion dismissed any notion of risk of precedent by acknowledging that the Council has the power to refuse inappropriate development that conflicts with policy. This is entirely accepted, but there is a reasonable expectation of consistency in decision making where there is no material difference in circumstance.

Weight Afforded to Policies

11.1.13 It is noted that the applicant's Counsel's Opinion contends that no weight can be attached to emerging policy DM10, however paragraph 48 of the National Planning Policy Framework explains how weight can be attached to emerging policies. Part 2 of the Blackpool Local Plan was subject to examination in public between 6th and 10th December 2021. At the time of the Counsel's Opinion, DM10 was subject to an unresolved objection submitted by the applicant against the proposed imposition of restrictions to control development around the pier heads. At the time of this meeting, the Inspector has issued comments and the Council has consulted on minor modifications between 27 July 2022 and 7 September 2022. These modifications included changes to the wording of DM10 to make reference to the geographical representation on the Policies Map and wording regarding the piers was amended. A footnote was also added to clarify that a landmark is a building or feature that is easily recognised and that can assist in wayfinding. No representations were received regarding the modifications to the policy. These changes put additional emphasis on the expectations for development affecting the piers to enhance the character or appearance and result in no harm to their significance. As the plan is at an advanced stage and no further, unresolved objections to the modifications have been received, in accordance with the National Planning Policy Framework it is considered that significant weight can be attached to Policy DM10.

11.1.14 Other emerging policies which are relevant to this proposal and are discussed in the assessment below include policies DM17, DM19, and DM28. DM17 is subject to one minor modification and is not subject to any unresolved objections. Significant modifications have been proposed to DM19, however these are modifications which have been requested by the Inspector and are not subject to any unresolved objections. The modification decreases focus on specific buildings within the Town Centre and emphasises focus on the sea front and coastline. DM28 has not been subject to any modifications. As such, as with Policy DM10, it is considered that due to the advanced stage and lack of unresolved objections, significant weight can be afforded to these emerging policies.

11.1.15 Regarding saved policies within the Local Plan, the National Planning Policy Framework is clear that policies adopted before the publication of the Framework should not necessarily be considered to be out-of-date but that due consideration must be given to the extent to which they are in accordance with the Framework. The relevant policies of the plan that relate to safeguarding and enhancing the visitor economy in Blackpool and the role, vitality, and function of the town centre are considered to be in accordance with the objectives of the National Planning Policy Framework.

Flood risk sequential test

11.1.16 In addition to the sequential appraisal for alternative commercial sites, for a development within Flood Zone 3 a sequential appraisal for sequentially preferable sites within Flood Zones 2 and 1 is also required. The applicant has submitted a Flood Risk Assessment and within the report has addressed the need for a sequential appraisal and exceptions test. Having considered the vulnerability of the proposed use, the report concludes that sequential and exceptions tests are not required. However, this is not the case. Whilst it is accepted that in accordance with Table 3 in the National Planning Practice Guidance an exceptions test is not required for less vulnerable developments in this location, a sequential test is required for all development within Flood Zone 2 or 3 except for minor development or development constituting a change of use. The applicant's Counsel's Opinion appears to conflate matters of drainage with issues of flood risk. A lack of objection from the drainage officer does not mean that no sequential test is required.

11.1.17 The National Planning Policy Framework requires a sequential risk-based approach to be applied to development proposed within Flood Zones 2 and 3 as development should not be permitted if there are reasonable available sites appropriate for the proposed development in areas with a lower risk of flooding. As such, a Flood Zone sequential test should have been carried out alongside the standard commercial sequential test which identifies sequentially preferable sites within Flood Zones 1 and 2 that also fall within a designated centre. However, as the proposed development would be a 'less vulnerable' use, an exceptions test would not be required should the proposals pass the sequential test. As there are other significant issues with the principle of the development that would preclude the acceptability of the proposal, a Flood Zone sequential test has not been requested as it would be considered abortive work.

Importance of the bar to support the Piers

11.1.18 The Counsel's Opinion provided by the applicant states that the bar provides vital support for the Pier and that it is clear how important the revenue from the bar is in supporting the income of the Pier. However, little financial information has been provided and what has been submitted is not considered to satisfactorily demonstrate that the bar is necessary to financially support the continued operation, repair, maintenance or improvement of the Pier as a tourist attraction and heritage asset. It is acknowledged that Central Pier suffered significant fire damage in 2020 and that evidence of decay at North Pier requires attention. Weight could be attached to any information that demonstrated that the bar was required as part of a wider asset management plan to repair and redevelop the Piers. As such, following the Committee meeting of August 2021 it was understood that the applicant would endeavour to provide detailed financial information to demonstrate that the bar revenue is necessary to support the repairs to the Piers, which could be used to explore whether a temporary permission may be appropriate to enable the bar to generate sufficient revenue to cover extraordinary costs to repair structures of significance to

Blackpool. Were such a permission granted, the planning circumstances would change by the end of the temporary period insofar that the risk to the future of the structure would have been managed, and therefore the harm to the setting of the heritage asset and town centre focus would no longer be outweighed by the specific needs of repair. The Council would also consider allowing the bar on a temporary basis to fund any extraordinary repairs needed to North or South Pier, or to rectify any previous neglect to bring the three piers to a condition whereby future maintenance could be covered by existing income generation.

- 11.1.19 A confidential document was submitted to the Council which gave an overview of works planned for the Piers and general figures for these works, including evidence of structural decay. The statement concludes that North Pier requires a lot of remedial repair work, the funding for which would be generated by the different offers on the Piers. Turnover analysis is provided for 2019-2021 for the Pirates Bay Bar, Terrace Bar (the subject of this application), and Show Bar which indicates that the percentage of bar income generated by the Terrace Bar has risen since 2019. It is not disputed that there are significant costs to repairing and maintaining the Piers, or that the Terrace Bar has generated income for the Pier and therefore could contribute to the funding for repairs, however the information provided fails to adequately demonstrate that the income from the bar is necessary to fund the works and that the bar should therefore be allowed despite significant conflict with policies.
- 11.1.20 It was requested that information be provided regarding the financial income and spending across Blackpool Pier Company in its entirety and the other attractions owned by the company which also generate income. It was also requested that details of financial models in relation to the operation of the bar in its current location and the operation of a bar in a different policy compliant location be submitted to determine whether it would be possible for a bar in a policy compliant location to achieve the same purpose of providing financial support to the Piers. Further information was provided including a breakdown of Terrace Bar income for 2021. When considering the 2021 income breakdown compared with the overview of costs related to the Piers, it appears that the costs that are considered extraordinary (i.e. not including typical maintenance costs associated with owning businesses on the Piers) have already been covered by the income generated by the Terrace Bar. As such, it was requested that a more up-to-date and relevant breakdown of the costs be provided and, once it is established which works are considered relevant and how much is required to cover them, a detailed schedule of works could be agreed which could then be appended to any temporary permission. It was agreed in May of 2022 that this information would be provided, however the information has not been received by the Council. As such, it is not considered that it has been satisfactorily demonstrated that the retention of the bar in its current location is necessary to cover costs for works to repair and maintain a structure of heritage significance to Blackpool beyond the ongoing maintenance costs that any business would incur in the course of its operation.

11.2 Design and Visual Impact

- 11.2.1 In accordance with policies CS7 and LQ1 new development in Blackpool is required to be well designed and enhance the character and appearance of the local area. Amongst other criteria, policy CS7 sets out that new development should be appropriate in terms of scale, mass, height, layout, density, appearance, materials and relationship to adjoining buildings. The recently updated National Model Design Code expands upon the principles of the National Design Guide and includes sections on context and identity. These set out that well-designed places are based on a sound understanding of the features of the site and the surrounding context, and are integrated into the surroundings so they relate well to them,

taking positive influence from them and responding to local history and heritage value. Emerging Policy DM17 reflects similar principles, setting out that all development should be of a high quality, and should enhance and respond to any positive character of the local area to create well designed, attractive, and distinctive neighbourhoods in Blackpool. Amongst other criteria it specifies that new development should have regard to heritage assets and their setting, have a consistent architectural style, and use materials that are appropriate to the location and context and maintain a high quality visual appearance in the long term. It specifies that particular attention should be paid to the design of new buildings in a sensitive location such as those affecting heritage assets or that would be highly visible due to the prominence of the location.

- 11.2.2 The seafront of Blackpool has a distinctive open character and, as established by local policies RR11 and NE9, the Council has clear objectives to preserve the identity of the seafront by safeguarding the space for public realm improvements and enhancing the existing attractions whilst keeping built development on the eastern side of the tram tracks. Policy LQ7 concerns strategic views and identifies views along the seafront and coastline to be of strategic importance, and aims to safeguard these views by not permitting development that would have a detrimental impact on the views. Emerging Policy DM19 sets out the importance of strategic views of Blackpool Tower and the seafront and coastline in particular, and sets out that development should protect and enhance views of these features of strategic importance. The modifications to the policy requested by the Inspector state that new development can make a positive contribution to the views of the seafront and coastline, but where development is likely to compromise these views it will be resisted. The proposed development is considered to compromise the established and distinctive open character of the seafront and surroundings by conflicting with these aims.
- 11.2.3 The application site is in a particularly prominent and highly visible location on the Promenade and is in close proximity to valuable heritage assets. The proposal includes four box-shaped structures housing a bar, storage, and toilets, a large canopy over the seating area adjacent to the bar and a smaller canopy on the opposite side of the decking over a stage. The decking itself is raised by approximately 0.5m and is enclosed by a balustrade made of vertical columns. The development has already been carried out. As existing, planters have been lined up in front of the decking and the walls of the structures are clad with faux grass. The open nature of the site means that all of the structures are highly visible. The canopies in particular have not been designed to integrate well with the development and make the site appear cluttered. The siting and materials used do not make the canopies appear coherent with the existing architecture at the Pier but instead as an incongruous addition. The structures themselves have a minimalistic design which in this case makes them appear akin to moveable temporary modular units. This perpetuates the cluttered character of the site and does not deliver the kind of high-quality design required in this location. Though not included on the proposed plans, the planters and cladding currently in situ add to the cluttered appearance. Further assessment of the impact of appearance of the development on the existing Pier is included in the Heritage Impact section below.
- 11.2.4 Regarding the siting of the development, it has been claimed that the bar is considered ancillary to the Pier, however it is clear both from the use of the site and the design that the development does not integrate well with the Pier. There is no direct access from the Pier and the site has been laid out so that it faces away from the Pier, back to back with the large side elevation of the Pier building. There is no coherence between the appearance of the development and that of the Pier. The application site sits in the foreground of the Pier and does not enhance the appearance of the Pier when viewed from the Promenade.

11.2.5 Where a scheme is otherwise considered to be acceptable in principle, the Council will always work with an applicant to resolve any minor issues to enable planning permission to be granted. Given the extent to which the proposal is considered to be visually unacceptable, it is not possible to identify a specific schedule of amendments that would make the scheme acceptable. It is not for the Council to offer a design solution.

11.3 Heritage Impact

11.3.1 The application site is adjacent to Central Pier which is a non-designated heritage asset under the terms of the National Planning Policy Framework; it was adopted onto the Council's Local List In 2013. It is also opposite the locally listed Huntsman building and in close proximity to the Fox hall Conservation Area. Emerging policy DM28 specifically concerns non-designated heritage assets and sets out that proposals which would retain, reuse and repair the significance of Blackpool's non-designated heritage assets will be supported, and that development which would remove, harm, or undermine the significance of a non-designated heritage asset will only be permitted where robust evidence can demonstrate that the benefits of the development clearly outweigh the harm.

11.3.2 Historically, the three Piers were the only structures on the Promenade, with the exception of the Locally Listed Metropole Hotel, and the character of the Piers are enhanced by the open setting of the seafront and views of the sea and beach. The Council aims to retain this distinctive character by safeguarding the sea front on the western side of the tram tracks for public realm improvements and retaining strategic views across the sea front in accordance with policies RR11, LQ7, NE9, DM10, and DM19.

11.3.3 Policy CS8 of the Blackpool Local Plan: Core Strategy concerns heritage and sets out that development proposals will be supported which respect and draw inspiration from Blackpool's built, social and cultural heritage, complementing its rich history with new development to widen its appeal to residents and visitors. The policy supports proposals that:

- retain, reuse or convert; whilst conserving and enhancing the significance of designated and non-designated heritage assets and their settings;
- enhance the setting and views of heritage assets through appropriate design, and
- strengthen the existing townscape character created by historic buildings.

Emerging Policy DM28 concerns non-designated heritage assets and sets out that development which would remove, harm, or undermine the significance of a non-designated heritage asset will only be permitted where robust evidence can demonstrate that the benefits of the development clearly outweigh the harm. It requires proposals to be accompanied by a heritage statement, and in accordance with paragraph 189 of the National Planning Policy Framework, the policy requires developers to demonstrate how any development affecting heritage assets will conserve and enhance the asset, its significance, and its setting.

11.3.4 A heritage statement has been submitted with the application which outlines the history of the Pier and its heritage significance. The statement asserts that the proposed development will complement the dominant modern façade of the Pier, as the Victorian style design of the Pier is only apparent towards the seaward end. It concludes that the scheme is designed to sit with the modern elements of the Pier whilst conserving the setting of the Pier, and complements the activity of the Pier in terms of entertainment offer. However, it is not considered that the proposed development integrates with either the Victorian style of the

Pier or the modern façade, as the materials used for the canopies and structures give the impression of a temporary development, and adds to the clutter created by other temporary structures such as fair ground rides and bouncy castles, but with a permanent impact. In assessing the significance of the application site, the statement sets out that it holds little historical value as it is open piece of land on the Promenade. However, this open piece of land forms part of the open setting surrounding the heritage asset and allows views from the Promenade of the Victorian substructure mentioned in the heritage statement. In this way, the proposed development would undermine the setting of the Pier and neither conserve nor enhance the significance of the heritage asset as required by policy CS8, and does not enhance the significance of the heritage asset or contribute positively to local character and distinctiveness as required by paragraph 197 of the National Planning Policy Framework.

11.3.5 Paragraphs 199-202 of the National Planning Policy Framework concern the consideration of the impact on designated heritage assets – it is accepted that no designated heritage assets would be affected by the proposal. The Pier (and other nearby heritage assets such as the locally listed Huntsman building) is a non-designated heritage asset, and so paragraph 203 of the NPPF is relevant. This requires the effect of an application on the significance of non-designated heritage assets to be taken into account. It sets out that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. This is consistent with the principles of emerging policy DM28.

11.3.6 In the Glossary within Annex 2 of the National Planning Policy Framework the ‘setting of a heritage asset’ is defined as ‘the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance, or may be neutral’. The harm caused by the proposed development would be to the setting of the Pier – it would not result in the loss of a heritage asset, but would affect how the existing heritage asset is experienced by permanently introducing a modern structure which is not designed in a way which complements or enhances the Pier and which would obscure views of the Pier and substantially change the way in which the previously open nature of the Pier is experienced.

11.3.7 It is acknowledged that the development may offer benefits in terms of financial support to the Pier however, as discussed in sections 11.1.13-15 of this report, it has not been satisfactorily demonstrated that the income generated by the bar is necessary to fund the works to repair the heritage assets. As such, based on the information available it cannot be considered that the financial benefits of the scheme would outweigh the harm caused.

11.3.8 Given the extent to which the principle of the development would have detrimental impacts on the open setting of the heritage asset, it is not possible to identify a specific schedule of amendments that would make the scheme acceptable.

11.4 Amenity Impact

11.4.1 The application site is in a highly trafficked area within the Resort Core and in close proximity to the Town Centre. There are no residential properties in close proximity, however there are various hotels nearby. The development would be predominantly open and includes a significant amount of external seating as well as a covered stage for live entertainment. Historically, a large number of complaints have been received regarding various activities at the Piers. As such, the Council’s Environmental Protection team has

requested that if the development is to be approved a noise assessment would be required. Subject to a noise assessment and appropriate mitigation measures, due to the location of the development it is not considered that the proposal would have an unacceptable impact on amenity.

11.5 Other Issues

- 11.5.1 The development is located on private land and does not project beyond the eastern end of the Pier where it could interfere with pedestrian passage or the tram tracks. It is in an accessible location where there is already a lot of foot traffic and it is not considered that the proposal would result in a significant increase in traffic generation or parking demand. It is not considered that the siting of the development itself would have an unacceptable impact on access, highway safety, or parking demand. However due to the prominent location, if the development were to have been approved, a Construction Management Plan would have been conditioned to include the agreement of utility and drainage connections, vehicular and plant access, and storage and plant operations. A highway dilapidation survey would also be required. However, as the planning application is retrospective, the development has already been carried out without the agreement of such details.
- 11.5.2 The application site falls within Flood Zone 3 and therefore a Flood Risk Assessment is required. A Flood Risk Assessment has been submitted with the application and reviewed by the Council's Drainage Officer who has confirmed that the information is acceptable. The site is already entirely hard surfaced, and the assessment indicates that the decking is to discharge to lower pavements at a flow rate to be restricted to 5 litres per second. In the event of an approval, a condition should be imposed requiring the development to be carried out in accordance with the details of the Flood Risk Assessment, and that surface and foul water should be drained on separate systems. Arrangements would need to be made with United Utilities by the applicant regarding impact on sewer connection, waste water assets, water supply etc.
- 11.5.3 The proposed development would not affect any features of particular biological interest.
- 11.5.4 Other than standard cleaning materials that would not be expected to be stored in any significant quantity, there would be no chemicals stored on site. As such, the scheme would not affect water, land or air quality and there is no reason to suppose that the site would be at undue risk of contamination.
- 11.5.5 The application has been considered in the context of the Council's general duty in all its functions to have regard to community safety issues as required by section 17 of the Crime and Disorder Act 1998 (as amended).
- 11.5.6 Under Article 8 and Article 1 of the first protocol to the Convention on Human Rights, a person is entitled to the right to respect for private and family life, and the peaceful enjoyment of his/her property. However, these rights are qualified in that they must be set against the general interest and the protection of the rights and freedoms of others. This application does not raise any specific human rights issues.
- 11.5.7 Through the assessment of this application, Blackpool Council as a public authority has had due regard to the Public Sector Equality Duty ("PSED") under s.149 of the Equality Act and the need to eliminate unlawful discrimination, advance equality of opportunity between people who share a protected characteristic and those who do not, and to foster

or encourage good relations between people who share a protected characteristic and those who do not. The application is not considered to raise any inequality issues.

11.6 Sustainability and planning balance appraisal

11.6.1 Sustainability comprises economic, environmental and social components.

11.6.2 Economically the scheme would generate revenue for the Pier Company, however, due to the location and nature of the scheme, the development could be detrimental to the Council's economic objectives as the development would not be located within any designated centres and would not directly support the function of any major tourist attractions as an ancillary element. Some employment would be generated by the scheme.

11.6.3 Environmentally, the scheme is not anticipated to have a detrimental impact on environmental quality and biodiversity and the scheme can be conditioned to be carried out in accordance with the approved Flood Risk Assessment. However, the scheme would have a detrimental impact on the character of the area and its setting as the design of the scheme would not integrate well with the surroundings and is not of a quality which would be considered appropriate for the prominent and sensitive location. It would conflict with goals for the regeneration of the seafront beyond the tram tracks.

11.6.4 Socially, the scheme would have limited impact on residential amenity, though in the event of an approval a noise mitigation scheme would be required to safeguard visitor amenity. By virtue of its siting and appearance the scheme would harm the setting of non-designated heritage assets and would have a detrimental impact on the character of the Pier and its surroundings. The development would also conflict with Council policies and would undermine the Council's regeneration objectives and strategy to direct main town centre uses to designated centres.

11.6.5 In terms of planning balance and as detailed above, the development proposed is not considered to constitute sustainable development. No other material planning considerations have been identified that would outweigh this view.

12 CONCLUSION

12.1 As set out above, the scheme is not judged to represent sustainable development and no other material planning considerations have been identified which would outweigh this assessment. On this basis, planning permission should be refused.

13.0 RECOMMENDATION

13.1 Refuse for the following reasons:

1 The proposed scheme would result in the development of main town centre use that is not a tourist attraction in its own right outside of any designated centres, without adequate justification, and would involve development on the Promenade frontage which is safeguarded for public realm improvements. Furthermore, the applicant has failed to demonstrate that the use could not be located in an area of lower flood risk. The proposal does not meet the criteria which would permit development of a main town centre use in this location and would undermine the Council's regeneration strategy for the Promenade and sea front by allowing piecemeal development which does not improve or enhance existing tourism attractions or include high quality public realm improvements. As such, the

proposal would be contrary to Policies CS1, CS4, CS7, CS9 and CS21 of the Blackpool Local Plan Part 1: Core Strategy 2012-2027, Policy RR11 of the Blackpool Local Plan 2001-2016, and sections 7, 12, and 14 of the National Planning Policy Framework.

- 2 The proposed development would not constitute a high quality design and would result in the space adjacent to the Pier appearing cluttered. The development does not integrate well with the Pier and the materials and design of the proposal do not complement the existing structures or enhance the appearance of the Pier. The development would also obstruct views of the Pier from the Promenade. It would therefore cause significant harm to the character and setting of the Pier and Promenade and the setting and value of nearby heritage assets. As such, the proposal would be contrary to Policies CS7 and CS8 of the Blackpool Local Plan Part 1: Core Strategy 2012-2027, Policies LQ1, LQ2, LQ7 and LQ10 of the Blackpool Local Plan 2001-2016, draft policies DM10, DM17, DM19, and DM28 of the emerging Blackpool Local Plan Part 2: Site Allocations and Development Management Policies and sections 12 and 16 of the National Planning Policy Framework.