

**Blackpool Council  
Development Management**

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**Officer Report to Committee**

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| <b>Application ref:</b>                  | 22/0506   |
| <b>Ward:</b>                             | Waterloo  |
| <b>Application type:</b>                 | FULL  |
| <b>Location:</b>                         |   |
|  | FLAGSTAFF GARDENS PROMENADE / OSBORNE ROAD<br>BLACKPOOL FY4 1HQ   |
| <b>Proposal:</b>                         | Erection of 19 shipping containers (part single and part two storey) and use of the land as food and drink venue comprising outdoor seating areas, roof terraces and canopy, external glazed balconies to upper floor, a stage and refuse store, with associated landscaping and bollards.  |
| <b>Recommendation:</b>                   | REFUSE  |
| <b>Recommendation Summary:</b>           | <p>The application proposes a hot food and drink development on safeguarded open space in an area where there is an identified shortfall of open space and no compensatory measures or mitigation is proposed.</p> <p>The proposal would exacerbate an existing over-concentration of hot food take away uses in area with significant health inequalities with high levels of childhood obesity.</p> <p>The siting of stacked shipping containers on open space is poor quality design and inappropriate in such a prominent location on the Promenade.</p> <p>The scheme would have a detrimental impact on the character, setting and views of the Grade II listed Casino and White Tower.</p> <p>The application fails to demonstrate that amenity and highway safety would be safeguarded.</p> |
| <b>Meeting date:</b>                     |   |
|  | 26/04/23  |
| <b>Reason for bringing to Committee:</b> | This application is before Members because the application is on Council owned public open space and the recommendation is that the Committee refuse the application.   |
| <b>Case officer:</b>                     | Clare Johnson   |
| <b>Case officer contact:</b>             | 01253 476224  |

## **1.0 SITE DESCRIPTION**

- 1.1 The application relates to the northern part of Flagstaff Gardens which occupies a prominent position on Blackpool's Promenade. The site is bound by Withnell Road to the north, Simpson Street to the east, the Promenade to the west and recently constructed public conveniences to the south, off Osbourne Road. The southern part of Flagstaff Gardens has been in use as a 'crazy golf' attraction since around 2004. To the north there are numerous public houses, cafes, amusement centres, arcades and hot food takeaways and food kiosks on forecourts. To the east is South Pier and the Sandcastle Water Park, Casino and car parking and to the south is the Pleasure Beach and there are a mix of residential uses to the east.
- 1.2 There are two United Utilities infrastructure buildings on the site on the northern and eastern boundaries and further United Utilities infrastructure (wastewater tank etc) lies beneath the site. According to the Planning Statement (Paragraph. 202), "the site currently comprises of an unused and visually unattractive area of hard standing". The Heritage Statement also refers to the site as being unattractive and drab. This is somewhat misleading, as only part of the Flagstaff Gardens is laid to hardstanding with the majority of the remaining site being grassed and surrounded by mature landscaping strips. One of the infrastructure buildings has recently been targeted by vandals who have left graffiti but there is nothing to suggest that if the graffiti was cleaned off, that this would be a re-occurring problem. The open space and its landscaping and single storey structures provide an open setting to the listed Casino building on approach from the north.
- 1.3 There is no on-site parking and on-street parking in the area is restricted and particularly over-subscribed.
- 1.4 The site is designated Public Open Space/Green Infrastructure and the site sits within the setting of the Grade II listed Pleasure Beach Casino/White Tower building to the south.
- 1.5 The site is within the Resort Core, the Defined Inner Area and an airport safeguarding area and is covered by the Promenade Article 4 Direction. The site is also in Flood Zone 1 and no other specific designations or constraints have been identified.

## **2.0 PROPOSAL**

- 2.1 The application is for full planning permission for the erection of 19 shipping containers stacked over two stories on Flagstaff Gardens and use of the public open space as a food and drink venue comprising outdoor seating areas, roof terraces and a canopy and stage area. There would be 7 large containers (12.2m x 2.4m) and 7 smaller containers (6.1m x 2.4m) at ground level and 4 large and 1 small container at first floor level. There would be a container used as a stage, a container used as WC's and five containers would be used for storage/office/staff facilities. The other twelve containers would comprise the following food and drink offers:

- Desserts and Coffee
- Mexican
- Spanish and Italian
- Noodle Bar
- Indian and Korean
- Chinese and Thai
- Burgers and Hotdogs

- Tapas
- Traditional (x2)
- Bar (x2)

2.2 The application has been supported by:

- Planning Statement
- Sequential Assessment
- Design and Access Statement
- Heritage Assessment
- Noise Assessment

### **3.0 RELEVANT PLANNING HISTORY**

3.1 03/0653 – Formation of adventure golf course and festival garden with ice cream parlour. (land to the south of Osborne Road) Permission granted 02/02/2007

3.2 09/0982 – Erection of a building to house ghost train attraction. Permission granted 11/01/2010

3.3 10/0214 – Erection of a building to house ghost train attraction. Permission granted 05/05/2010

3.4 18/0267 - Erection of a single storey public convenience with retail kiosk, paved seating area and flagstaff on the north garden. Permission granted 28/06/2018

### **4.0 RELEVANT PLANNING POLICY/GUIDANCE/LEGISLATION**

#### **4.1 National Planning Policy Framework (NPPF)**

4.1.1 The NPPF was adopted 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 9 – Promoting Sustainable Transport
- Section 12 - Achieving well-designed places
- Section 14 – Meeting the Challenge of Climate Change, Flooding, and Coastal Change
- Section 15 – Conserving and Enhancing the Natural Environment
- Section 16 – Conserving and Enhancing the Historic Environment

#### **4.2 National Planning Practice Guidance (NPPG)**

4.2.1 The NPPG expands upon and offers clarity on the points of policy set out in the NPPF.

#### **4.3 Blackpool Local Plan Part 1: Core Strategy 2012-2027 (Core Strategy)**

4.3.1 The Core Strategy was adopted in January 2016. The Council's key objectives set out in the Core Strategy include:

- Ensuring a balanced approach to regeneration and growth with sustainable development which meets the needs of Blackpool's people now and into the future

- Create well-designed places for people to enjoy with high quality buildings, streets and spaces, whilst conserving and enhancing Blackpool’s rich heritage and natural environment
- Ensure there is sufficient and appropriate infrastructure to meet future needs
- Develop sustainable and safer neighbourhoods that are socially cohesive and well connected to jobs, shops, local community services including health and education, culture and leisure facilities
- Improve the health and well-being of Blackpool’s residents and reduce health inequalities by maintaining good access to health care and encouraging healthy active lifestyles, including access to open spaces, the coast, countryside, sport and recreation facilities

4.3.2 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
- CS10 Sustainable Design and Low Carbon and Renewable Energy
- CS11 Planning Obligations
- CS12 Sustainable Neighbourhoods
- CS15 Health and Education
- CS21 Leisure and Business Tourism

#### **4.4 Blackpool Local Plan Part 2: Site Allocations and Development Management Policies (Part 2)**

4.4.1 The Blackpool Local Plan Part 2 (Part 2) was adopted in February 2023. The following emerging policies in Part 2 are most relevant to this application:

- DM10 Promenade and Seafront
- DM15 Threshold for Impact Assessment
- DM16 Hot-Food Take-Aways
- DM17 Design Principles
- DM19 Strategic Views
- DM21 Landscaping
- DM26 Listed Buildings
- DM28 Non-Designated Heritage Assets
- DM31 Surface Water Management
- DM35 Biodiversity
- DM36 Controlling Pollution and Contamination
- DM37 Community Facilities
- DM41 Transport Requirements for New Development
- DM42 Aerodrome Safeguarding

## 4.5 Other relevant documents, guidance and legislation

- 4.5.1 The Blackpool Local Plan Evidence Base Topic Paper: Managing the location of Hot Food Takeaways (December 2020 Update) has been considered with regards to obtaining data on obesity and hot food takeaway concentrations in Blackpool. It is acknowledged that the figures in this document have not been updated recently, therefore publicly accessible up to date statistics from the Office for Health Improvement and Disparities will be considered in full consultation with the Public Health Team. The Topic Paper confirms that Public Health England has identified that on average in the UK there are around 96 hot food takeaways per 100K population, whereas in Blackpool, there are 217 or 196 (excluding the Promenade) per 100K population in Blackpool with 12 of its 21 wards having more than 10% more hot food takeaways than the national average.
- 4.5.2 In his Report on the Local Plan Part 2, the Inspector confirms that the 2015 and 2019 Indices of Deprivation ranked Blackpool as the most deprived local authority area in the country. This is based on data indicators used from seven domains which include income and health and the Inspector concluded that the evidence is compelling. The Local Authority Health Profile 2019 shows the health of people in Blackpool is generally worse than the England average. It shows life expectancy for men is 12.3 years lower and for women 10.1 years lower than the national average with obesity among the local population being a contributory factor. The Blackpool Joint Strategic Needs Assessment confirms that 75% of adults in Blackpool are overweight (compared to 63% in England) and 31% of adults in Blackpool are obese (compared to 27% in England) and confirms that obesity is an important factor contributing to the inequality gap in life expectancy in Blackpool residents.
- 4.5.3 The Council's Healthy Weight Declaration commits the Council to working with other bodies on a range of actions including reducing unhealthy weight in Blackpool. It also recognises the potential for the planning system to contribute towards reducing unhealthy weight as part of a broad multi-disciplinary package of measures.
- 4.5.4 The Joint Strategic Needs Assessment (JSNA) sets out the public health profile of the population in Blackpool compared to England and is designed to help local government and health services understand their community's needs, so that they can work together to improve people's health and reduce health inequalities.
- 4.5.5 Greening Blackpool Supplementary Planning Document (SPD) - this document was adopted in May 2022 and sets out the green infrastructure and tree planting requirements for new development.
- 4.5.6 Blackpool Council declared a Climate Change Emergency in June 2019 and is committed to ensuring that approaches to planning decision are in line with a shift to zero carbon by 2030.
- 4.5.7 Blackpool Council adopted the Blackpool Green and Blue Infrastructure (GBI) Strategy in 2019. The GBI Strategy sets out six objectives for Blackpool in terms of green infrastructure:
- Protect and Enhance Green and Blue Infrastructure i.e. protecting the best and enhancing the rest
  - Create and Restore Green and Blue Infrastructure i.e. greening the grey and creating new Green and Blue Infrastructure in areas where it is most needed
  - Connect and Link Green and Blue Infrastructure i.e. making the links, improving connectivity and accessibility of Green and Blue Infrastructure
  - Promote Green and Blue Infrastructure i.e. changing behaviour, promoting the benefits of Green and Blue Infrastructure and encouraging greater uptake of outdoor activity

and volunteering.

- 4.5.8 The Environment Act 2021 makes provision for all planning permissions to be conditional on the provision of biodiversity net gain. Whilst there is, as yet, no requirement set out in statute, the Government's clear intention is a material planning consideration. The Council will therefore seek to secure biodiversity net gains where practicable in advance of this becoming a statutory requirement.
- 4.5.9 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.
- 4.5.10 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.

## **5.0 CONSULTEE RESPONSES**

### **5.1 United Utilities**

- 5.1.1 United Utilities initially objected to the proposals as there were features located over and in close proximity to a number of critical United Utilities wastewater network infrastructure, including a pumping station, rising mains and large sewers. Proposed containers were sited over existing assets including manholes which would prevent access to sewers in the event of an emergency. United Utilities has confirmed that they will not allow building over or in close proximity to a water main and the diversion of assets may be required at the developers' expense and the costs of such diversion may be prohibitive in the context of the development scheme.
- 5.1.2 The applicant has submitted further information and amended plans which retains United Utilities access to their assets, with just movable tables and chairs over an underground tank and manhole covers. On the basis of the amended plans, United Utilities has removed their objection in principle.
- 5.1.3 However, United Utilities remains concerned about the proposals and have requested that the applicant undertakes an Odour Risk Assessment as a proposed seating area is located directly over an operational wastewater network tank. The tank contains stagnant wastewater as part of United Utilities' operational network in the area so there is a risk of odours at the proposed seating area and beyond. In addition to odour, there is an amenity risk from flies, noise and vibration. The Odour Impact Assessment should be submitted to United Utilities for review prior to the determination of the application. (Officer Note – an Odour Impact Assessment has not been requested given the officer recommendation to refuse the application as this would potentially be considered abortive work).
- 5.1.4 United Utilities vehicles, possibly tankers, will also need access to the area. United Utilities wishes for the Local Planning Authority to ensure that the applicant understands such concerns and how this may impact the proposals post determination of any planning application, given the nature of the proposal.
- 5.1.5 Should permission be granted, United Utilities is recommending that surface water is discharged sustainably, in accordance with the drainage hierarchy set out in the NPPF and

NPPG.

- 5.2 **Electricity North West** - Electricity North West Limited has a right of way and cable easement that extends approximately 4.2m southwards from the south facing elevation of the existing substation building. Access should not be impeded. The development is shown to be adjacent to or affect Electricity North West's operational land or electricity distribution assets.
- 5.3 **Greater Manchester Ecology Unit** - no comments received. Any comments will be reported in the Update Note.
- 5.4 **Police Architectural Liaison Officer**
- 5.4.1 The change of use should be designed using the Secured By Design security principles. Security staff should be present at the entrance/exits and be in clear hi vis uniform and a recorded HD digital colour CCTV system should be installed which should cover the outside of the buildings, especially entrance and exits doors, and internal public areas to deter criminal or anti-social behaviour activities and for any evidential purposes. Intruder alarms should also be installed.
- 5.4.2 A secure boundary shall be put in place which will limit trespassers and will channel visitors through an appropriate main entrance. Gates should be of matching standard and height of the adjoining fence/ container
- 5.4.3 External waste bins should incorporate lockable lids and be secured in place. Waste bin storage areas should be well lit, and any boundary treatments should allow natural surveillance into the area. Waste bins should be stored away from the building line to prevent their use as climbing aids and the risk of arson.
- 5.4.4 The front and side façades that contain doors and windows should be illuminated using dedicated vandal resistant, dusk till dawn photoelectric light fittings.
- 5.4.5 The development will be vulnerable to youths climbing on to the roof of the containers. To reduce the impact I recommend the removal of any items close to the building shell that can act as a climbing aid up to the roof and hostile toppers should be considered within weak spots.
- 5.4.6 The site should be secured throughout the construction phase with robust security measures.
- 5.5 **Lancashire Fire and Rescue** - standard advice regarding access and water supplies required under Building Regulations Approved Document B
- 5.6 **Blackpool Airport** – no comments received. Any comments will be reported in the Update Note.
- 5.7 **Blackpool Civic Trust** - This green space should not be developed as it was part of the development of the Bathing pool in the 1930's.

## 5.8 Public Health Blackpool -

- 5.8.1 Obesity is one of the greatest long-term health conditions this country faces and is a significant public health concern which results in long-term negative social, psychological and physical consequences. In relation to childhood obesity, the World Health Organisation (WHO) regards childhood obesity as one of the most serious global public health challenges for the 21<sup>st</sup> century and tackling obesity is one of the most complex health challenges facing the international community.
- 5.8.2 The most recent published data for Blackpool (2019/20) estimates that 71.6% of adults were overweight or obese, which is significantly higher than the national average of 62.8%. This is a particular concern for Public Health in Blackpool due to the long-term impact of obesity and excess weight on life expectancy and other chronic disease. Evidence also shows that people who are overweight or obese are more likely to be negatively affect by COVID-19.
- 5.8.3 The National Child Measurement Programme (NCMP) is a mandated programme of work set out by the Government to understand the levels of obesity in children. In 2020/21 the data collected for Blackpool reported that 18.9% of our reception children were classed as obese, which is higher than the previous year of 12.6% and has more than doubled in the last 10 years from 8.5% in 2011/12. The prevalence rate is significantly higher than the national average of 14.4%. Children who were measure who were classed as overweight or obese was 36.7% which is a significant increase from the previous year, 28.5% in 2019/20, and significantly higher than the national average of 27.7%. The data collected for our Year 6 children reported a prevalence rate of 30.2% were obese which is significantly higher than the national average of 25.5%. Children who were measured and reported as being overweight or obese was 46.8% which is a significant increase on the previous year's figure of 41.5% and significantly higher than the national average of 40.9%.
- 5.8.4 The planning application for Flagstaff Gardens is located within the Waterloo Ward. The Public Health Team are able to interrogate National Child Measurement Programme data to ward level and the table below demonstrates the obesity levels within the Waterloo Ward for our children.

| <b>Mapping data- Ward level 2018/19-2020/21 (three years combined)</b> |                  |                         |                        |                          |                         |
|--|------------------|-------------------------|------------------------|--------------------------|-------------------------|
| <b>NHS Digital</b>   |                  |                         |                        |                          |                         |
| <b>Excess weight and obese by school year</b>                          |                  |                         |                        |                          |                         |
|  |                  | <b>Reception</b>        |                        | <b>Year 6</b>            |                         |
| <b>Ward code</b>   | <b>Ward name</b> | <b>R-ExW-18/19-2021</b> | <b>R-Ob-18/19-2021</b> | <b>Y6-ExW-18/19-2021</b> | <b>Y6-Ob-18/19-2021</b> |
| <b>E05001663</b>   | <b>Waterloo</b>  | <b>27.2</b>             | <b>12.1</b>            | <b>41.0</b>              | <b>24.5</b>             |
|  | <b>Blackpool</b> | <b>31.1</b>             | <b>14.3</b>            | <b>42.6</b>              | <b>27.9</b>             |
|  | <b>England</b>   | <b>23</b>               | <b>9.9</b>             | <b>35.2</b>              | <b>21.0</b>             |

- 5.8.5 These figures demonstrate there is a significant issue of obesity within the Ward and to introduce a further 10 food outlets would be detrimental to the health of the Blackpool



Population. It is appreciated that this is located on the promenade and aimed at the tourist population, but we have to acknowledge that this would also attract the local residents. On reviewing the area, there are sufficient pubs/cafes/fish and chips/Indian takeaways etc. in the immediate vicinity and so there is already plenty of food offers available.

- 5.8.6 Blackpool Council is committed to improving the health and well-being of its residents and in 2016 signed the Local Authority Declaration on Health Weight. This declaration is a commitment to improving the obesity levels within the town and in particular one commitment is about protecting residents from commercial pressures and vested interests of the food and drink industry supplying high fat, salt and sugar products. To support this commitment, there are a range of interventions including a healthier choices award to encourage businesses to offer healthier food to our residents. On reviewing the planning application the proposed food outlets would increase high fat, salt and sugar products being offered in the town. There is no consideration to healthier options within the businesses being proposed which include desserts and coffee; Mexican; Spanish and Italian; Noodle Bar; Indian Korean; Traditional; Chinese and Thai; Burgers and hot dogs and Tapas.
- 5.8.7 Public Health is concerned that the above proposed eating establishments may not come to fruition and the spaces would end up offering the same traditional high fat, sugar and salt food that is already available in the town. To help support the health of the residents, Public Health want to see the transition of food outlets across Blackpool from the majority of unhealthy deep fried foods to more wholesome global street food offerings and want to work with new businesses to review menu content, food quality, sourcing and cooking methods in order to offer healthier choices. This is not evident within this proposal and therefore Public Health object to the proposal.

## 5.9 **Built Heritage Manager**

- 5.9.1 The site falls within the setting of the Grade II listed Casino at Blackpool Pleasure Beach with its landmark white tower. It is also a public open space.
- 5.9.2 In its favour, the structures appear to be reasonably easy to remove. It will be within view of the locally listed South Pier but far enough removed from it to have limited impact on its setting. However, it will visually impact on the more immediate setting of the Casino and the landmark qualities of the White Tower. The flagstaffs which gave the gardens their name may no longer be there, but the gap between the Pleasure Beach and the buildings to the north of Withnell Road (formerly an amusement arcade and now the Velvet Coaster) created a visual break between the built up area of the Promenade and the amusement park to which the casino was the entrance building. The toilet block has already compromised this open approach to the Pleasure Beach, and the proposed development would further encroach on its setting.
- 5.9.3 The public open space may appear to be somewhat spartan, but the containers are proposed to be erected on the only green section of the site, thereby negatively impacting on its amenity value, which would be better served by improving its current appeal.
- 5.10 **Environmental Protection** - no comments received. Any comments will be reported in the Update Note.

## 5.11 **Local Highway Authority -**

5.11.1 I have no objection to the principle or scale of the proposal. However, the supporting documentation does not explain how it will be serviced. I would need to see a short explanation. The site is surrounded by waiting restrictions and limited waiting bays providing some support to nearby businesses. If the developer would expect to see changes to Traffic Regulation Orders in the course of implementation that would be a material consideration and should be made clear at this stage.

5.11.2 It would be necessary to have or to condition a Construction Management Plan because there are obvious requirements, for example for lifting, that will, in turn, require formal traffic management permissions. With containers in place the site also has little space for contractor parking or storage and it is unclear what parts of the site layout the contractor would need to occupy.

5.11.3 I would prefer the site layout to recognise the likely flow across the Promenade at the Pelican crossing near to container 9. The existing planting layout is presently proposed to be retained intact - to a degree hiding the Pelican crossing and very much inviting a crossing movement between containers 4 and 8.

5.12 **Drainage Officer** - no comments received. Any comments will be reported in the Update Note.

5.13 **Parks Development Manager** - I object to the current proposed design due to the removal of a green space. However, I like the concept of using reconditioned containers. Trees could be placed along the north, east and south boundaries (in tree pits within the ground) with coastal plants along the west, and add green roofs/walls to the containers to mitigate the loss of the grass and assist with water management. Bird boxes can also be placed on the containers on the opposite sides to the food courtyard.

5.14 **Head of Strategic Assets and Estates** - The south west corner of the site has been leased out to Danfo as a toilet and the tenants have right of access from the highway corner of Osborne Road and the Promenade

## 6.0 **REPRESENTATIONS**

6.1 Press notice published: 12/07/2022

6.2 Site notice published: 04/07/2022

6.3 Neighbours notified: 05/07/2022

6.4 The application has been advertised as a departure from the Development Plan as the site is Public Open Space. However, after consideration of the proposal with regard to The Town And Country Planning (Consultation) (England) Direction 2021, it is not felt that the application needs to be referred to the Secretary of State as the recommendation is for refusal and the application is not for Green Belt development, significant development outside town centres, World Heritage Site development, playing field development, flood risk area development or commemorative object development.

6.5 Two representations have been received on behalf of the Pleasure Beach which raise the following issues:

- The development essentially proposes a takeaway operation in an area which is already saturated with takeaways
- The development will compete with established businesses and have a detrimental impact on them, undermining the local economy
- The development will not provide a 'high quality public realm'. It lacks permanence and the site location is not a festival event area, contrary to Policy RR11
- The site is open space so the development is contrary to Policy BH5 and CS6 as it will not provide facilities for new sports or recreational use and cannot be incorporated sensitively into the surroundings. Stacking shipping containers on this location with a raised seating deck will not retain any useable open space, and will not enhance the character of the open space. It will completely remove the open space and it will not provide replacement open space of an equivalent vale and purpose (even if just for passive recreation).
- Policy BH17 states that proposals for development of hot food take away shops, restaurants, snack bars, public houses or similar uses will be directed to existing shopping frontages and will not be permitted where they would have adverse effects on the amenities of neighbouring premises or residents in the surrounding vicinity. Again, the proposed development will conflict directly with this policy, in terms of the site being located away from a shopping frontage, whilst also close to residential properties.
- Policy CS4 engages but is not satisfied as the development is not a tourism attraction, there are other more centrally located sites, and it will cause a significant adverse impact on the existing area contrary to CS4
- The site is green infrastructure. Policy CS6 states that the loss of green infrastructure will only be acceptable in exceptional circumstances where it is allowed for as part of an adopted Development Plan Document; or where provision is made for appropriate compensatory measures, mitigation or replacement; or in line with national planning policy.
- In terms of existing open space, sports and recreational buildings and land, including playing fields, these will be protected unless the requirements of paragraph 74 of the NPPF are met." (paragraph 99 of the 2021 NPPF).
- Policy CS7 states that new development is required to be well designed, and enhance the character and appearance of the local area. The proposed shipping containers will fail to comply with the aims of this policy, and will be totally out of character with surrounding development.
- The development will not comply with DM10. A pleasant, and valued area of open space will be replaced by an unattractive development of shipping containers. Blackpool is now aspiring for much more high quality and distinctive developments, and this proposal will do nothing to improve the public realm.
- The site is within the Resort Core and the proposal is not a high quality tourism attraction, would not improve the visitor experience, will not enhance existing venues nor promote new ones, nor accommodate a year round programme of events, festivals or conferences and will simply trade off existing permanent venues, contrary to CS21
- This development cannot be considered to be a quality cultural/leisure facility, it is not a quality improvement or enhancement of a building/frontage, nor is it a high quality landmark building and is therefore contrary to Policy DM12
- There are many development areas within the Blackpool Town Centre and out of centre (and better connected to it), than the site location

- The development is for fast food takeaway meals and beverages, which does not offer or promote access to healthier food.
- It has the potential for public disorder as the site location is adjacent to a large public house (Wetherspoons), if the development seeks to trade on those pub customers at night
- According to the Planning Statement (Paragraph 202), “the site currently comprises of an unused and visually unattractive area of hard standing”. This is somewhat misleading, as only part of the Flagstaff Gardens is laid to hardstanding. Importantly, it is also an area of open space.
- The Planning Statement also states (Paragraph 2.6) that the Public Open Space offers limited amenity value, and use in that regard, and would appear to have not been well used, if at all, for a significant period. In fact, the existing site would give rise to current concerns on potential criminal activity and general anti-social and unneighbourly behaviour. The existing site is an eyesore on one of the key transit routes, and in a prominent location on the Promenade.” Whilst we accept that the site does need continued maintenance, no evidence is provided that the Gardens suffer from anti-social behaviour and criminal activity. It is also questionable that the site is an eyesore, as it is essentially an area of public open space that needs improved maintenance.
- The application is accompanied by a Sequential Test Report that identifies a number of site addresses that would be more suitable, sequentially, for the type of use envisaged. This report seems to reject a number of sites without good reason. Whilst it is accepted that the development cannot be broken up, there needs to be a certain amount of flexibility in the shape and configuration of the unit, which would open up a number of sequentially preferable locations.
- The Town Centre has suffered from having multiple vacant units for many years including
- 26-32, Market Street, the former Woolworths/Lewis’s building between Market Street and the Tower Building, the former RBS Building and the site at 190-194 Promenade. Further consideration should be given to vacant units and plots that would not remove an important area of public open space.
- There is no mention of other available sites, such as 66-74 Promenade or the former Yates Wine Lodge on South Promenade, which shut down in March 2022. This building has a footprint of around 700 sqm and could accommodate a ‘street food’ development
- The report spends a lot of time listing sites in industrial estates that have no possibility of being suitable, yet provides little or no analysis of genuinely good sites. These well-located sites need more discussion and explanation. The application is therefore contrary to CS4
- Utilising Flagstaff Gardens would be a missed opportunity, both removing an important area of public open space from recreational use, and also failing to find a new use for sites or buildings that are currently unoccupied. The inadequate Sequential Test report needs to be scrutinised by the Council and other opportunities genuinely pursued.
- In summary, therefore, this proposal is not compliant with a number of policies in the Local plan. These issues do not appear to be ones that could be addressed by the applicant. Opportunities to improve Flagstaff Gardens, whilst retaining its overall role as an area of open space, should be explored. The Adventure Golf on the adjoining section of Flagstaff Gardens is an example of a development that has retained the open character of the Gardens and has ensured that it has remained in a recreational use.

6.6 The comments on behalf of the Pleasure Beach make reference to some old Local Plan policies which are no longer relevant since the Local Plan Part 2 was adopted in February 2023, specifically reference to RR11, BH5 and BH17.

6.7 The Committee are respectfully reminded that issues relating to competition are not valid planning considerations, although the impact of the overall economic health of the area is a valid planning consideration.

## **7.0 ASSESSMENT**

### **7.1 Principle**

- 7.1.1 The site is within the Resort Core and Policy CS1 focuses future growth, development and investment on Inner Area regeneration including in the Resort Core. The site is currently used for informal sports and recreation and is designated Public Open Space and green infrastructure. As such, the application site, whilst it would benefit from investment to improve its appearance and function as green space, it is not a site that is in need of regeneration.
- 7.1.2 Policy CS21 relates to leisure and business tourism and focuses new high quality tourism attractions focused on the Town Centre and Resort Core and supports the improvement and enhancement of important existing tourist attractions. The proposal is in the Resort Core but whilst it would be used by tourists given that the site fronts the Promenade, adjacent the Pleasure Beach, the Waterpark and South Pier, it is not itself a tourism attraction. A tourist attraction is a land use which provides a purpose for a tourist visit and attracts tourists rather than one which merely happens to be used by tourists. There are many, varied food and drink offers in and around the area, the proposal is not ancillary to an existing tourism attraction and therefore would not improve or enhance important existing tourist attractions.
- 7.1.3 The open space has been eroded with the introduction of the crazy golf facility (although it is an alternative sport and recreation use and does maintain open character) and the public conveniences, which were considered to be much needed essential infrastructure, with no alternative or more preferable sites available. The crazy golf use was granted permission in 2003 (03/0653 refers) and one of the conditions on that permission was that the north side of Flagstaff Gardens (including the application site) should be enhanced and maintained “for the unfettered enjoyment of the general public.” Similarly, the 2018 permission for the public conveniences included conditions requiring enhancements for the remainder of the open space, which do not appear to have taken place. In 2010 the Council granted a 2 year temporary permission for a ‘Ghost Train’ leisure attraction on the application site. However, that was a temporary permission for two years and since then, there have been material changes in both national and local planning policy with the introduction of the NPPF in 2012 (updated July 2021), the adoption of the Core Strategy in 2016 and the Local Plan Part 2. Furthermore, in 2019, the Council adopted their Green and Blue Infrastructure Strategy and declared a climate emergency. Also in 2019, the Council commissioned an Open Space Assessment and a Green and Blue Infrastructure Technical Report which both identify this public open space as amenity greenspace serving a local catchment, in an area with very little open space, and serving a community whose needs are not being met in terms of green infrastructure.
- 7.1.4 Paragraph 92 of the NPPF states that Planning policies and decisions should aim to achieve healthy, inclusive and safe places which enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure. Core Strategy Policy CS6 is the overarching strategic policy in relation to green infrastructure and it sets out Blackpool Council’s approach in spatial planning terms to protect, enhance, expand and connect green

infrastructure and ecological networks across Blackpool. The supporting text provides the context to the Policy and highlights the challenge of creating new green spaces due to the dense urban nature, and the historic street pattern of the Inner Areas. Policy CS6 states that the loss of open space will only be acceptable in exceptional circumstances where it is allowed for as part of an adopted Development Plan Document or provision is made for compensatory measures, mitigation or replacement. Policy CS6 goes on to state that existing open space will be protected unless the requirements of paragraph 74 of the NPPF are met (now paragraph 99 in the July 2021 update).

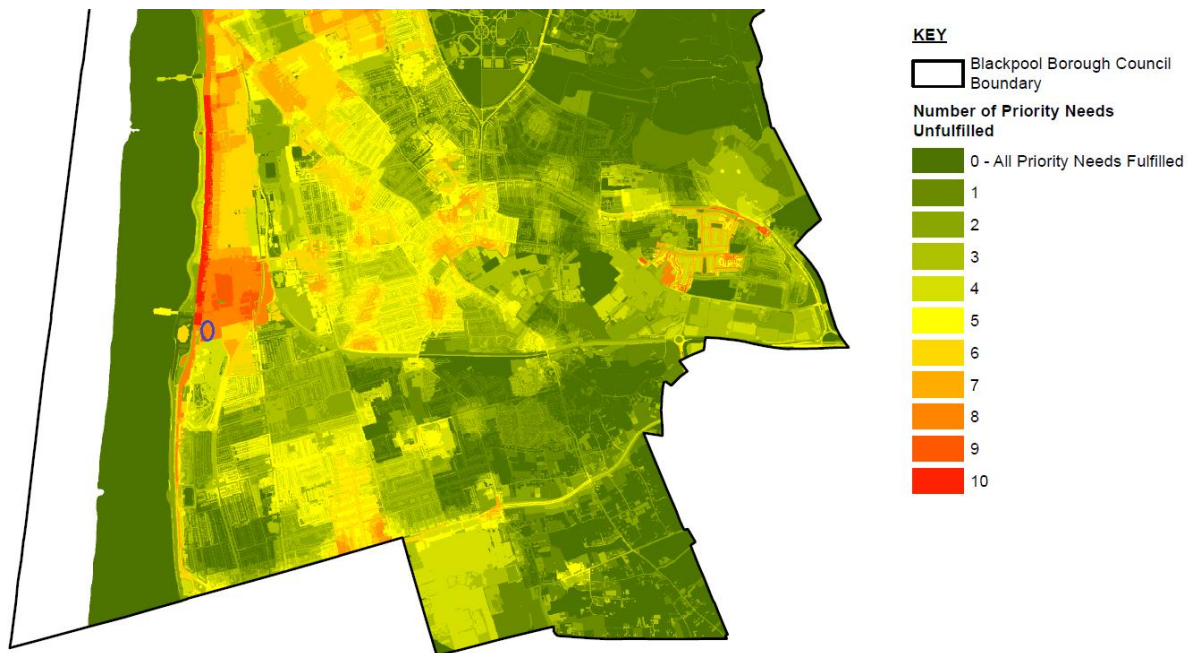
7.1.5 Paragraph 99 of the NPPF states that existing open space should not be built on unless:

- An assessment has been undertaken which clearly shows the open space is surplus to requirements; or
- The resulting loss would be replaced; or
- The development is for alternative sports and recreation provision, the benefits of which clearly outweigh the loss of the current or former use

7.1.6 Policy CS12 supports development that provides high quality community facilities and creates a healthy and attractive environment and Policy CS15 supports development that encourages healthy and active lifestyles and addresses the Council's health priorities. Policy DM37 relates to community facilities and states that proposals that would lead to the loss of a community facility through demolition or change of use, would only be supported where the existing facility would be relocated or replaced in a location to serve the same community, or that the applicant can demonstrate that there is no longer a need for the facility in its current use or an alternative community use.

7.1.7 The 2019 Open Space Assessment identifies Flagstaff Gardens as amenity greenspace of local importance and rates it as 'fair'. The Assessment confirms that there is 0.22 ha of amenity greenspace per 1,000 population in Blackpool. This compares to Wyre which has a standard of 0.4 ha and Fylde which has 1.04 ha of amenity greenspace per 1,000 population. Fields In Trust's (FiT's) Guidance for Outdoor Sport and Play (2015) provides a benchmark of 0.6 ha per 1,000 population nationally. So borough wide there is a significant shortage of amenity greenspace. In Waterloo ward, that provision is just 0.12 hectares of amenity greenspace per 1,000 population, which is again significantly less than most other areas in Blackpool. The Open Space Assessment recommends that the provision in Waterloo ward is increased to 0.2 hectares per 1,000 population.

7.1.8 Furthermore, the Green and Blue Infrastructure Technical Report identifies areas where priority needs are not being met by green infrastructure (application site circled below):



7.1.9 There are few opportunities in or around Waterloo ward to increase the provision of amenity greenspace/Public Open Space given the densely built up and heavily urbanised nature of this part of the Inner Area.

7.1.10 The Parks Development Manager has also objected to the loss of green space. Therefore it cannot be demonstrated that this open space/community facility is surplus to requirements and no replacement open space is proposed to meet the needs of the local community.

7.1.11 A food hub which takes up all of the remaining public open space is not an alternative sports and recreation provision and no exceptional circumstances have been demonstrated to satisfy Policy CS6. The space would be gated and secured when not in use and it would change the character of the space to the extent it could no longer be used for informal sports and recreation and so it is considered that the proposal cannot meet the requirements of NPPF paragraph 99, Policy CS6 or Policy DM37. This weighs significantly against the proposal in the planning balance.

7.1.12 Similar container parks have been approved elsewhere in the Country, such as Stack in Newcastle, Cargo in Bristol, Spark in York and Hatch in Manchester amongst others. However, these were approved on a temporary 'meanwhile' basis, usually on cleared sites in more industrial centres/docklands surrounded by larger scale industrial/warehouse type development, often in areas where there is a Masterplan or allocation in place for long term regeneration, rather than on Public Open Space, in an area where there is an identified shortfall of open space.

7.1.13 There would be economic benefits as a result of the development in terms of job creation, although with the exception of take away and delivery options, these would largely be seasonal and dependent on fair weather given the outdoor nature of the venue. On balance, the economic benefits of the proposal would not outweigh the loss of open space.

7.1.14 As such, the loss of this remaining parcel of open space and green infrastructure is not considered to be acceptable in principle as the proposal is contrary to Policies CS6, CS12, CS15 and DM37 and Part 8 of the NPPF.

## **7.2 Sequential Test and Impact Assessment**

7.2.1 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 not in a designated centre and not in accordance with the local plan. The glossary of the National Planning Policy Framework describes the uses which can be considered main town centre uses and includes food and drink uses. As such, the proposed scheme is considered a main town centre use located out of centre and the sequential test should be applied.

7.2.2 Policy CS4 directs town centre uses to the town centre, district centres, and local centres. In out of centre locations, such uses will only be permitted where it can be demonstrated that it is a tourism attraction in the Resort Core, that there are no sequentially preferable and appropriate sites available, the proposal would not cause significant adverse impact on existing centres and would not undermine the Council's strategies and proposals for regenerating its centres and the site is accessible. As set out above, whilst the site is within the Resort Core, the proposal is not a tourism attraction.

7.2.3 The development is not of a scale to warrant an Impact Assessment which demonstrates that the proposal would not cause significant adverse impacts on existing centres or planned investment in centres, under Paragraph 90 of the NPPF. However the proposal would require an Impact Assessment under Policy DM15 of the Local Plan Part 2, given its scale and proximity to the Waterloo District Centre and Lytham Road/Station Terrace Local Centre. However, the application was submitted in June 2022, prior to the Inspector who examined Part 2 issuing his final report, confirming that Part 2 was sound. As such, and given that the principle of the development is not considered to be acceptable, no Impact Assessment has been pursued as this would be abortive work, although in accordance with Policy CS4, impact must still be considered to a proportionate extent.

7.2.4 In terms of sequentially preferable sites, the sequential test guides main town centre uses towards in-centre locations first, then, if no in-centre locations are available, to edge-of-centre locations and, if neither town centre locations nor edge-of-centre locations are available, to out-of-centre locations (with preference for accessible sites which are well connected to the town centre). Paragraph 91 of the NPPF directs local planning authorities to refuse applications for development that fails to satisfy the sequential test.

7.2.5 The applicant has briefly assessed a number of sites across Blackpool, most of which are not in centre and therefore would not be sequentially preferable. Most notably the assessment does not consider the Blackpool Central Site which is within the Town Centre and Resort Core. However, it is acknowledged the Blackpool Central site only has outline permission (21/0517 refers) and that those developers have up to June 2026 to submit a reserved matters application. Blackpool Central will be built out in phases and there are also a large number of conditions to discharge before any floorspace could become operational. As such, it is acknowledged that Blackpool Central is currently unavailable for the purposes of the sequential test.

7.2.6 The former Hartes/Woolworths building on Bond Street or the old Post Office on Waterloo Road are not considered in the assessment and these properties are less than 500m away from the application site and in the nearest District Centre, although those sites do not



appear to be on the market currently. The Post Office on Abingdon Street has only recently been put back on the market and so would not have been available when the agent was considering sequentially preferable sites, although that property would be sequentially preferable for a range of food and drink uses.

- 7.2.7 The Sequential Assessment only undertook online property searches via Right Move and Zoopla, neither of which are specialist commercial agents and local agents or building owners do not appear to have not been contacted. The Sequential Assessment states that it would not be reasonable or necessary to disaggregate the food and drink units for the purposes of the sequential test but gives no explanation other than to state the need for storage, seating areas, cycle parking, parking and ancillary staff areas. The proposal does not include parking and it is unclear why a range of food and drink units could not be reasonably disaggregated for the purposes of the sequential test.
- 7.2.8 However, considering the proposed outdoor venue as a whole, with a range of food and drink units in shipping containers, arranged around a stage and with outdoor seating areas, it is accepted that there are no sequentially preferable sites that could accommodate the venue. Equally, it is not considered that the proposal would have a significant adverse impact on the Town Centre or the nearest District or Local Centres. Given the separation between the application site and Blackpool Central, and given that Blackpool Central will have its own food and drink offers and the range of food and drink offers elsewhere in the Town Centre, it is not anticipated that the proposal would have a significant adverse impact on the planned investment at Blackpool Central.

### **7.3 Public Health**

- 7.3.1 Part 8 of the NPPF confirms that planning decisions should aim to achieve healthy, inclusive and safe places which enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example, through the provision of safe and accessible green infrastructure and access to healthier food. Planning decisions should plan positively for the provision of community facilities such as open space and should take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community. The NPPG confirms that the design and use of the built and natural environments, including green infrastructure are major determinants of health and wellbeing.
- 7.3.2 Policy CS12 supports development that provides high quality community facilities and creates a healthy and attractive environment. Policy CS15 supports development that encourages healthy and active lifestyles and addresses the Council's health priorities. The Council launched their Healthy Weight Declaration in August 2015, and was the first local authority to adopt the declaration in January 2016. The Healthy Weight Declaration was re-launched and signed again on the 14th November 2022. The declaration is a strategic commitment made across the council to reduce unhealthy weight and provides Blackpool Council with the opportunity to lead on local action in tackling obesity and promoting health and well-being of local communities.
- 7.3.3 As a result of the increasing prevalence of obesity in Blackpool's children and the significant health inequalities that this can present, Local Plan Part 2 introduces Policy DM16 which restricts new hot food take aways in or within 400m of wards where there is more than 15% of Year 6 children or 10% of reception aged children with obesity.

- 7.3.4 Data from the Office for Health Improvement and Disparities confirms that in England, 9.7% of reception aged children and 20.4% of children in Year 6 are living with obesity. In Waterloo ward, the Public Health Team have confirmed that 12.1% of Reception aged children and 24.5% of Year 6 children and in Waterloo ward are living with obesity which is significantly more than the average in England.
- 7.3.5 In 2017, Public Health England published data stating that in England, there were 96.1 hot food takeaways per 100,000 head of population. In Blackpool, excluding units on the Promenade, there are 198 hot food takeaways per 100,000 population, but in Waterloo ward there are 267 per 100,000 head of population, excluding the units on the Promenade and excluding ice cream/donut type units and cafes. Whilst you would expect to see more takeaway provision than average in Waterloo given the proximity of large scale tourism attractions, these figures indicate that the area is already very well served by hot food uses and that there is already an over-concentration, with many more in this ward than the Blackpool average, and significantly more than the national average. The large leisure uses have their own food and drink offers and the amount of opportunities to consume unhealthy food, which despite being aimed primarily at tourists, also attracts local residents. In the rebuttal to the Pleasure Beach objections, the author confirms that the applicants will ensure a safe, secure and well managed development, for the benefit of local residents as well as visitors within this part of the town.
- 7.3.6 The 2019 Indices of Deprivation data confirms that Waterloo ward is within the top 0.01% most deprived wards in England and the 23<sup>rd</sup> most deprived ward in terms of health. The correlation between high levels of deprivation, poor access to open spaces, over-concentrations of take away food and poor health is well documented and the independent Planning Inspector who examined the Local Plan Part 2, commented that the evidence in Blackpool was compelling.
- 7.3.7 As set out in the consultation response from the Public Health Team, obesity is one of the greatest long-term health conditions in the Country and one of the most complex health challenges internationally. In Blackpool, the health inequalities related to obesity are much more pronounced than the national average and the prevalence of childhood obesity is increasing.
- 7.3.8 A wide range of food would be sold for consumption on and off-site. Conditions could not reasonably be imposed on a planning permission which limit or restricts the types of food that could be sold from the units or how that food should be cooked. Conditions could not be imposed requiring that all food is to be consumed on the premises or prevent online ordering and delivery to residential areas. As such, it is considered that the proposal would exacerbate the existing over-supply and over-concentration of hot food take away premises in the area and would therefore compromise ongoing efforts to improve public health and reduce childhood obesity in one of the most deprived areas of the town, where rates of childhood obesity significantly exceed national averages. The proposals also conflict with the Council's priorities set out in the Council Plan, to improve public health and outcomes for young people. As such, the proposal would be contrary to Part 8 of the NPPF, Policies CS7, CS12 and CS15 of the Core Strategy and Policy DM16 of the Blackpool Local Plan Part 2.

## **7.4 Design and Visual Amenity**

- 7.4.1 The NPPF at paragraph 126 states that the creation of high-quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, with good design being a key aspect of sustainable development. Paragraph 130 explains that developments should function well and add to the overall quality of an area; be visually attractive and sympathetic to local character and history; should establish a strong

sense of place and should create places that are safe, inclusive and accessible that promote health and well-being and a high standard of amenity without fear of crime. The importance of landscaping is emphasised in paragraph 131. Paragraph 134 states clearly that development that is not well-designed should be refused.

- 7.4.2 The National Design Guide, and the National Model Design Code illustrate how well-designed places that are beautiful, healthy, greener, enduring and successful can be achieved in practice. The National Design Guide puts an emphasis on beauty and confirms that well-designed places are based on a sound understanding of the features of the site and the surrounding context, integrated into their surroundings so they relate well to them, influenced by and influence their context positively and are responsive to local history, culture and heritage. The Design Guide confirms that successful places provide attractive open spaces in locations that are easy to access, with activities for all to enjoy, such as recreation and sport, so as to encourage physical activity and promote health, well-being and social inclusion.
- 7.4.3 Policy CS7 requires new development in Blackpool to be well designed, and to enhance the character and appearance of the local area and should be appropriate in terms of scale, mass, height, layout, density, appearance, materials and relationship to adjoining buildings. CS7 requires development to provide public and private spaces that are well-designed, safe, attractive, and complement the built form and to maximise natural surveillance and active frontages and precludes development that that would have an adverse local impact in local character or amenity. Appropriate green infrastructure including green spaces, landscaping and quality public realm should be an integral part of the development.
- 7.4.4 Policy DM10 relates to the Promenade and seafront and supports proposals which further improve the appearance and economic function of the Promenade east of the tram tracks where they involve:
- a. re-development of existing poor quality, seasonal and transient uses with quality cultural and leisure facilities and holiday accommodation;
  - b. quality improvements and enhancements to buildings and frontages;
  - c. new high quality landmark buildings;
  - d. high quality public realm, landscaping and green infrastructure, lighting and security;
  - e. conserving, enhancing and securing sustainable futures for the town's heritage assets.
- 7.4.5 The supporting text to DM10 confirms that there is limited opportunity for development on this part of the Promenade other than extensions and alterations to the existing leisure assets. Any such development should be of the highest quality and respect the setting of the Grade II listed White Tower building at the Pleasure Beach as appropriate.
- 7.4.6 Policy DM17 relates to design and states 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. DM17 requires development to have regard to the following characteristics of the local area:
- a. the topography and landscape features;
  - b. heritage assets and their setting;
  - c. the pattern, size and arrangement of streets, buildings and building lines;
  - d. the scale, height, massing and roofscapes;
  - e. vertical and horizontal rhythms created by windows and other architectural features;
  - f. materials, boundary treatments and landscaping.

- 7.4.7 DM17 expects facades to be appropriately detailed and requires development to provide a human scale at street level, to have sufficient texture, depth and detailing to provide visual interest and to provide active frontages on all elevations with a street presence. DM17 also requires that materials used in developments should be appropriate to the location and context in terms of their colour, texture, pattern and elements of detailing and to maintain a high quality visual appearance in the long term and wherever possible materials should be re-used or recycled and be re-usable or recyclable. Particular attention should be paid to the design of new buildings in sensitive locations such as those affecting heritage assets or that would be highly visible due to the prominence of the location or the scale of the development proposed.
- 7.4.8 Policy DM19 requires development to protect and enhance strategic views along the seafront.
- 7.4.9 Flagstaff Gardens is in a particularly sensitive and prominent location on the Promenade. The shipping containers architectural language is derived from an industrial aesthetic and is not appropriate for permanent development on the Promenade, on public open space or in the setting of a heritage asset (discussed further in the Heritage section). The proposal is not ancillary to a new tourism attraction and the stacking of shipping containers on public open space would not complement the high quality public realm investment along the Promenade or enhance the appearance of Blackpool's seafront, contrary to Policy CS21.
- 7.4.10 The layout of the site has been heavily dictated and constrained by the underground infrastructure, resulting in the cluttered arrangement of the containers around the perimeter of the site, presenting solid metal rear elevations to the streetscene. As such, other than short sections of roof terrace at first floor on the Promenade, there would be no active frontages as the containers would be located and stacked along the perimeter of the site with all activity looking inward and would not maximise natural surveillance. The negative visual impact would be exacerbated once extraction and ventilation systems have been installed on many of the containers where hot food would be prepared.
- 7.4.11 A narrow landscaped buffer would be retained along the Promenade frontage, sandwiched between the boundary wall and containers but the landscaped areas around the rest of the site would be removed, with two large containers and one small, siting hard up against the boundary wall on Simpson Street. Given the nature of the site, replacement landscaping would be difficult to achieve. The two-storey containers closest to the Promenade would also be sited forward of the building line, and would not relate well to buildings either side and making them even more prominent in the streetscene.
- 7.4.12 The proposal would have an adverse impact on the local character of the area and would not improve the appearance of the Promenade or be a quality improvement or enhancement of the site and would not respect the setting of the Grade II listed White Tower Casino building, or protect and enhance strategic views along the seafront contrary to Policies CS7, DM10 and DM19. The development is not high quality design and would not enhance or respond well to the character of the area to create well designed, attractive and distinctive neighbourhoods as required by DM17.
- 7.4.13 The siting of the shipping containers as proposed on what is a prominent position on the Promenade, the poor layout, design and materials used would represent an incongruous form of development which would harm visual amenity and the proposal would be discordant with the form of development along this part of the promenade and it is not considered to be acceptable in visual terms.

7.4.14 The Council has resisted poor quality design across the road from the site, on the pier head to the south of South Pier when permission was refused for the retention of a poor quality go karting track in January 2022. Similarly, the Planning Committee refused permission for bar development on the pier head to the north of Central Pier in October 2022, citing that 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. Whilst all proposals must be considered on their own merits, there is an expectation of consistency in decision-making. Consequently an approval in this instance would make it harder for the Council to resist poor design elsewhere along the Promenade. Refusing this scheme at Flagstaff Gardens would reinforce the message that the Council will not accept poor quality design.

## **7.5 Heritage**

7.5.1 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

7.5.2 Part 16 of the NPPF states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (including from development within its setting), should require clear and convincing justification and where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

7.5.3 Policy CS8 supports proposals that enhance the setting and views of heritage assets through appropriate design and layout of new development and design of public realm and that strengthens the existing townscape character created by historic buildings. Policy DM26 confirms that the Council will support proposals which sustain and enhance the significance of Blackpool's Listed Buildings including their setting. Great weight will be given to the conservation of those elements that contribute to the significance of the listed building including its setting. Proposals which would cause harm to a listed building, will only be permitted where this is clearly justified and outweighed by the public benefits of the proposal.

7.5.4 The Conservation Officer has confirmed that in her view, whilst the development proposed would be in view of the locally listed South Pier, it is far enough removed from it to have limited impact on its setting, but is concerned about the visual impact on the more immediate setting of the Grade II listed Casino and the landmark qualities of the White Tower.

7.5.5 The application is accompanied by a Heritage Statement in accordance with the requirements of the NPPF. The Heritage Statement concludes that there will be no adverse

effect upon the setting of the listed building as Flagstaff Gardens presents a negative contribution to the setting of the listed building and the miniature golf course separates the two. How a landscaped area with little in terms of above ground development could have such a negative contribution on the setting of the listed building is unclear. In any case, erecting 19 industrial shipping containers over two stories on the site will not improve the setting.

- 7.5.6 The listing for the Casino notes its prominent setting on the Promenade, where it acts as a definitive landmark and gateway to the Pleasure Beach. The gap between the Pleasure Beach and the buildings to the north of Withnell Road (The Velvet Coaster) creates an important landscaped visual break between the built up area of the Promenade and the amusement park to which the Casino was the entrance building.
- 7.5.7 The public convenience block has encroached somewhat on the open setting but it is well designed and only single storey and given its scale and set back, is somewhat screened by the mature landscaping. In any case, clear and convincing justification was made in that case and the public benefits of providing a public convenience for which there was a need, outweighed the limited harm to the setting of the listed building. What is proposed would be over two-stories closest to the Promenade, sited forward of the building line and poor quality design with industrial blank metal facades, creating visual clutter in the streetscene. The proposal would not assimilate well in the streetscene or enhance the setting or views of the Casino and its White Tower and would amount to less than substantial harm to the significance of the listed building, without any clear and convincing justification or overriding public benefits to justify the harm caused.
- 7.5.8 As such, the proposal is considered to be contrary to Policies CS7, CS8, DM10, DM17, DM19 and DM26 and paragraph 202 of the NPPF.

## **7.6 Amenity**

- 7.6.1 Paragraph 185 of the NPPF confirms that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health and living conditions.
- 7.6.2 Policy CS7 states that new development should ensure that amenities of nearby residents and potential occupiers are not adversely affected and precludes development that causes unacceptable effects by reason of visual intrusion, overlooking, shading, noise and light pollution or any other adverse local impact on local character or amenity.
- 7.6.3 Policy DM36 confirms that development will be permitted where it can be demonstrated that the development will be compatible with adjacent existing uses and would not lead to unacceptable adverse effects on health, amenity, safety and the operation of surrounding uses and for occupants and users of the development itself, with reference to noise, vibration, odour, light, dust or other pollution or nuisance. Applications will be required to be accompanied, where appropriate by relevant impact assessments and mitigation proposals.
- 7.6.4 In terms of the amenities of people using the venue, United Utilities has confirmed that one of the main seating areas would be located directly over an operational wastewater network tank which contains stagnant wastewater and so people using the seating area may experience unpleasant odours, noise and vibrations and there is also an amenity risk from flies. UU have requested the submission of a screening level Odour Impact Assessment for

their review, prior to the determination of the application and the applicant has been made aware of this request. However, as explained elsewhere in this report, the proposals are not considered to be acceptable in principle and so this additional Assessment has not been required prior to determination and the applicant has requested that the application be determined in its current form.

- 7.6.5 As it has not been demonstrated that the proposal would not result in harm to the amenities of future users of the site in terms of odours, noise and vibrations, particularly in an area which would be used for the consumption of food, the proposals are considered to be contrary to Policies CS7 and DM36.
- 7.6.6 In terms of residential amenity, there are residential properties to the east of the site on Simpson Street, approximately 20m away from the nearest proposed container and approximately 30m away from the proposed stage and nearest seating area. The site is already used as public open space with the Promenade and numerous tourism attractions beyond. As such, residents in the area can be expected to be accustomed to a higher level of activity, noise and disturbance than would be typical in a more traditional residential area.
- 7.6.7 Nonetheless, the application form indicates that the venue would open between 10am and 11pm Monday to Saturday and would close at 10pm on Sundays and bank holidays. Given the outdoor nature of the venue and it opening until late in the evenings, the proposals still have the potential to have an adverse impact on neighbouring residential properties in terms of noise.
- 7.6.8 A Noise Assessment has been submitted which confirms that at busy times (lunch time and tea time), there are likely to be up to 100 people on the site. The Assessment states that the main source of noise from the venue is expected to be voices of customers and that the venue would be marketed at families as an eating venue rather than a drinking venue, although two of the containers would be bars and the venue would be open most evenings until 11pm. However, the Assessment is silent of the provision of the stage and there is no reference to music, amplified or otherwise. It is reasonable to assume that with an open air stage on the site, there is the potential for music, shows, events or big screen sporting events involving amplified sound and music, throughout the day and into the evening. In granting permission for the development with a stage, it would be unreasonable for the local authority to impose a condition on the permission precluding the use of the stage. Without further clarity and assessment, it is unclear whether the development would have an adverse impact on residential amenity in terms of noise nuisance and whether any mitigation measures could overcome any such issues. In the absence of further assessment, the proposals are considered to be contrary to Policies CS7 and DM36 in terms of noise.
- 7.6.9 The Noise Assessment recommends the imposition of a condition requiring details of mechanical equipment to be submitted to ensure adequate control of any potential noise from such equipment, and a condition requiring the submission of a Management Plan which includes a statement on controlling noisy behaviour from customers. Such conditions would appear to be reasonable and necessary if planning permission were to be granted.
- 7.6.10 Noise emanating from the site during construction could be controlled through the submission of a Construction Management Plan.
- 7.6.11 The two storey elements of the scheme are generally sited away from the nearest residential windows and no windows are proposed facing Simpson Street. As such, no residential impacts in terms of outlook or privacy are anticipated.

- 7.6.12 Given the number of food outlets proposed and the outdoor nature of the proposals, it is anticipated that the venue would generate a large volume of refuse from both food preparation and consumption. However, details of secure refuse storage and management could be adequately dealt with through the imposition of condition.
- 7.6.13 However, on balance the proposal is considered to be contrary to Policies CS7 and DM36 in terms of amenity.

## **7.7 Access and Highway Safety**

- 7.7.1 Part 9 of the NPPF promotes sustainable transport and confirms that transport issues should be considered from the earliest stages of development proposals. This is so that the potential impacts of development on transport networks can be addressed, opportunities from existing transport infrastructure are realised and patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places. At paragraph 111, it states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.7.2 At paragraph 112, the NPPF states that applications for development should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles and allow for the efficient delivery of goods, and access by service and emergency vehicles.
- 7.7.3 Policy CS7 requires development to incorporate well integrated car parking, pedestrian and cycle routes and facilities, as does CS5. Policy DM41 permits development where the access, travel and safety needs of all affected by the development are met. Proposals must ensure that safe and appropriate connection to the road network is secured for all transport modes requiring access to the development and that convenient, safe and pleasant pedestrian and cycle routes are provided. DM41 also required appropriate levels of car and cycle parking and a layout which provides for sufficient levels of servicing and operation space.
- 7.7.4 It is acknowledged that the site is in a highly accessible location, close to bus, tram and cycle routes and the scheme includes cycle storage provision. As such, despite no parking being provided and the significant pressures on the on-street parking in the area, no concerns are raised in terms of lack of parking.
- 7.7.5 However, the application lacks detail regarding servicing. Conditions could not reasonably be imposed which restrict telephone or online/app orders for food delivery. The Head of Highways and Traffic Management Services has confirmed that the site is surrounded by waiting restrictions and limited waiting bays which support existing businesses nearby and it is unclear how or where numerous delivery drivers could safely park whilst collecting food orders. This is of particular concern given the number of different food units proposed and how busy the area is with pedestrian's peak season. Since the introduction of food apps, areas of Blackpool experience a significant churn of delivery drivers which can be problematic where parking is restricted or servicing areas are inadequate. As such, this is a fundamental issue which could not be left to agreement through conditions.
- 7.7.6 The main entrance to the venue understandably utilises an existing opening in the boundary wall on the Promenade. The Head of Highways and Traffic Management Services has also



raised concerns that this site layout would invite crossing movements to the north of the existing pelican crossing, which is opposite the public conveniences to the south of the site.

- 7.7.7 Given the lack of servicing details and a proposed site layout which would encourage people to cross what is a very busy road, away from a safe crossing point, it is considered that the application is contrary to Policies CS7 and DM41.

## **7.8 Climate Change and Biodiversity**

- 7.8.1 At paragraph 157, the NPPF states that in determining planning applications, local planning authorities should expect new development to take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption. The NPPF also seeks to ensure that flood risk is not increased elsewhere as a result of development.
- 7.8.2 Policy CS10 requires non-residential development to reduce the need for energy and to include energy efficiency measures. Policy DM21 relates to landscaping and requires the use of green walls and roofs where effective landscaped buffers cannot be achieved. Policy DM35 requires development to minimise the impacts on biodiversity and provide net gains through good design and incorporating biodiversity enhancements and habitat creation where opportunities exist.
- 7.8.3 It is assumed that the development would reuse and repurpose existing shipping containers rather than sourcing new containers and if so, that would be sustainable in terms of the use of resources.
- 7.8.4 Flagstaff gardens provides the only soft landscaping on the Promenade, west of the tram tracks between the Crescent to the south of the Pleasure Beach and The Grand Hotel/former Derby baths site in north shore.
- 7.8.5 A brief ecological statement assesses the presence of sparrows and starlings (both species on the International Union for Conservation of Nature's red list due to significant decline in numbers) using the site and confirms that the presence of juvenile sparrows was indicative of probable breeding on the site. The statement suggests that sparrows tolerate human activity and advises that there are better areas for foraging starlings. The statement concludes that as long as the all works are completed between September and March, there should not be any impact on breeding house sparrows. This could be secured by condition.
- 7.8.6 Some landscaping would inevitably be lost due to the close proximity of the containers to the established landscaped borders. The Parks Development Manager has suggested that trees could be planted in tree pits within the ground, but the shipping containers would be hard up against the boundaries to the north, south and east and the underground infrastructure and easements would make tree planting in the ground problematic. A landscaping condition could include the requirement for the roofs of the containers that are not needed for access/seating, to be green, and green walls and trees planted in pots could be included and bird boxes provided. The inclusion of green roofs and walls would also increase the energy efficiency of the development as these features insulate against extreme weather temperatures and reduce/slow down surface water run-off.
- 7.8.7 In accordance with the Greening Blackpool SPD, had the recommendation been for approval, a contribution of seven trees would be required. If the trees could not be planted on site, a contribution of £7,000 towards off-site tree planting would have been required and secured in a S106 agreement.

- 7.8.8 As such and on balance, whilst some habitat would be lost, the applicant could be required to incorporate approximately 7 green roofs to benefit biodiversity. That along with other planting, tree planting and bird boxes could mitigate for lost habitat and foraging opportunities. As such there is no conflict with DM35 with regards to biodiversity.
- 7.8.9 The application site is wholly within Flood Zone 1 and so is at low risk of flooding from river or tidal flooding. Paragraph 167 of the NPPF confirms that when determining planning applications, Local Planning Authorities should ensure that flood risk is not increased elsewhere.
- 7.8.10 Core Strategy Policy CS9 requires appropriate SuDS where surface water run-off will be generated and, where this is not possible, surface water entering the combined sewer should be reduced by as much as is reasonably practicable. In addition, Policy DM31 requires surface water to be discharged in line with the National Planning Practice Guidance in the most sustainable drainage option available.
- 7.8.11 No drainage details have been provided but acceptable drainage could be secured through the imposition of standard drainage conditions.

## **7.9 Other issues**

- 7.9.1 It is understood that the container annotated as container 1 on the site layout plan would be located on part of a right of way and cable easement for Electricity North West that extends approximately 4.2m southwards from the south facing elevation of the existing substation building to the south of Withnell Road. Whilst this is not a planning consideration, it is understood that, in reality, container 1 could not be installed as shown if planning permission were to be granted.
- 7.9.2 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).
- 7.9.3 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.
- 7.9.4 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.

## **8.0 Sustainability and planning balance appraisal**

- 8.1 Sustainability comprises economic, environmental and social components.
- 8.2 Economically the proposal would include Town Centre uses outside of a defined centre. However, it is accepted that there are no sequentially preferable site to accommodate the outdoor venue as a single entity. Equally, it is not considered that the proposal would have a significant adverse impact on the Town Centre or the nearest District or Local Centres. Some employment would be created through construction and operation. As such, the scheme would be economically sustainable
- 8.3 Environmentally, environmental quality would not be materially affected and there is potential to achieve biodiversity gains via condition. There is no reason to assume that there would be a detrimental impact on drainage. However, the use of stacked shipping containers as proposed, arranged around the perimeter of the site, forward of the building line and inward looking and without an active frontage or visual interest is considered to be very poor design. The layout and design fails to have due regard to the positive characteristics of the surrounding area and would not assimilate well in the streetscene or enhance the setting or views of the listed Casino and its White Tower. The proposal would amount to less than substantial harm to the significance of the listed building, without any overriding public benefits to justify the harm caused and would not protect and enhance strategic views along the seafront.
- 8.4 Socially, the site is not at risk of flooding and there is no reason to assume that flood risk elsewhere would increase as a result of the development. However, the proposal would result in the loss of the remaining public open space and green infrastructure in an area where there is a demonstrable lack of open space and no replacement open space if proposed to meet the needs of the local community. The loss of this public open space would not support the delivery of local strategies to improve the health of the community and would not support healthy and active lifestyles. The provision of so many additional food units would add to the existing over concentration of hot food uses in the ward and would not assist in reducing the health inequalities experienced in the Inner Area, where deprivation levels are very high, where life expectancy is much lower than the national average and where children are already significantly heavier than the national averages.
- 8.5 Furthermore, it has not been demonstrated that the amenities of future users of the site would be safeguarded in terms of odours or the amenities of residential uses nearby would be safeguarded in terms of noise. It has not been demonstrated that pedestrian safety would be safeguarded or that the site could be safely serviced without undue risk to highway safety and the general amenities of the area.
- 8.6 In terms of planning balance, the development proposed is not considered to constitute sustainable development in terms of the environmental and social components. No other material planning considerations have been identified that would outweigh this view.

## **9.0 FINANCIAL CONSIDERATIONS**

- 9.1 The Council own the land and would benefit financially from the development. However, this holds no weight in the planning balance.

## **10.0 BLACKPOOL COUNCIL PLAN 2019-2024**

- 10.1 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.
- 10.2 This proposal would have some economic benefits but would not assist in creating stronger and more resilient communities and improve public health outcomes for young people for the reasons outlined above.

## **11.0 CONCLUSION**

- 11.1 The development would have some economic benefits in terms of job creation and there would be some benefit to tourists in terms of more food and drink choices in the area. However, these benefits do not outweigh the harm identified above including poor design, the loss of public open space, the health inequalities experienced by residents, the harm to the setting of a listed building and the potential amenity harms from an outdoor stage and amplified music and where highway and amenity impacts from delivery drivers and servicing have not been addressed.

## **12.0 RECOMMENDATION**

- 12.1 Refuse for the following reasons:
- 1 The loss of the remainder of this open space would be contrary to the Development Plan as it is not surplus to requirements, no compensatory measures or mitigation are proposed and no exceptional circumstances exist. The development is not for alternative sports and recreation provision with benefits which would outweigh the loss of the open space. As such, the proposal is contrary to paragraphs 92 and 93 of the NPPF, Policies CS6, CS12 and CS15 of the Blackpool Local Plan Part 1: Core Strategy 2012-2027 and Policy DM37 of the Local Plan Part 2: Site Allocations and Development Management Policies 2012-2027 document.
  - 2 The proposed use would exacerbate the existing over-supply and over-concentration of hot food take away uses in the immediate area and would therefore compromise ongoing efforts to improve public health and reduce childhood obesity in one of the most deprived areas of the town, where rates of childhood obesity significantly exceed national averages. This would be contrary to the Council’s aims to reduce health inequalities and to promote a healthy, safe and attractive environment. As such, the proposal would be contrary to paragraph 92, 93 and 130 of the NPPF, Policies CS7, CS12, and CS15 of the Blackpool Local Plan Part 1: Core Strategy 2012-2027 and Policy DM16 of the Local Plan Part 2: Site Allocations and Development Management Policies 2012-2027 document.
  - 3 The design by way of the layout, scale, blank facades, lack of detailing, lack of visual interest or active frontage, use of materials, position forward of the building line and the overall appearance of the shipping container development is considered to be poor quality and inappropriate on such a prominent location on the Promenade and would fail to make a positive contribution to the local character and distinctiveness or protect and enhance strategic views along the seafront and coastline. As such, the proposal is contrary to paragraph 130 of the NPPF, Policies CS7 and CS21 of the Blackpool Local Plan Part 1: Core Strategy 2012-2027 and Policies DM10, DM17 and DM19 of the Local Plan Part 2: Site Allocations and Development Management Policies 2012-2027 document and should be refused in accordance with paragraph 134 of the NPPF.

- 4 The placement and stacking of shipping containers on this open space would constitute less than substantial harm to the special historical character, setting, views and significance of the Grade II listed Casino and its White Tower, without the necessary public benefits to outweigh the harm caused. As such, the proposal is contrary to Policies CS7 and CS8 of the Blackpool Local Plan Part 1: Core Strategy 2012-2027 and Policies DM10, DM17, DM19 and DM26 of the Local Plan Part 2: Site Allocations and Development Management Policies 2012-2027 document.
  
- 5 The application fails to demonstrate that the amenities of future users or the amenities of nearby residents would be safeguarded in terms of noise and odours or that the layout of the site would promote safe access to and from it and that the development could be safely and conveniently accessed for servicing and deliveries. As such, the proposal is contrary to paragraph 130 of the NPPF, Policy CS7 of the Blackpool Local Plan Part 1: Core Strategy 2012-2027 and Policies DM36 and DM41 of the Local Plan Part 2: Site Allocations and Development Management Policies 2012-2027 document.