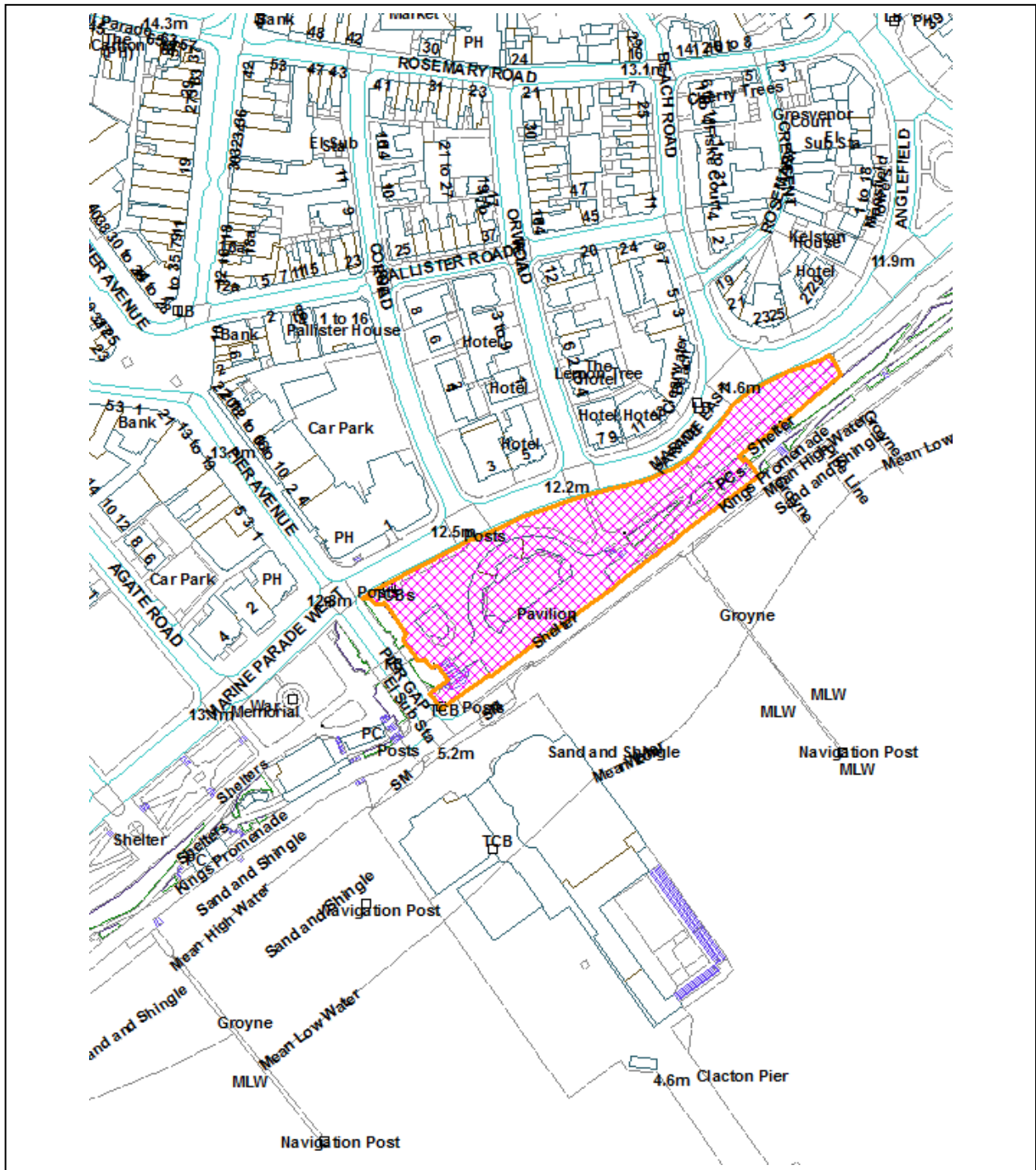


PLANNING COMMITTEE  
2 FEBRUARY 2016  
REPORT OF THE HEAD OF PLANNING

**A.4 PLANNING APPLICATION – 15/01808/FUL – CLACTON PAVILION, PIER GAP, CLACTON ON SEA, CO15 1PS**



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**Application:** 15/01880/FUL      **Town / Parish:** Clacton (Non-Parished)

**Applicant:** Mr. William Peake

**Address:** Clacton Pavilion, Pier Gap, Clacton on Sea, CO15 1PS

**Development:** Change of use of open space to, and use of whole site as an amusement park; the creation of a new water park; the relocation of the adventure golf; the extension of the Pavilion building at Cliff-Top level; the refurbishment of toilet block to provide a café/restaurant and public toilets, with associated infrastructure, landscaping and surfacing works.

## 1. **Executive Summary**

- 1.1 This application has been referred to the Planning Committee for determination as the proposal involves Council-owned land and buildings. The proposal represents a further phase of investment in attractions and facilities at Clacton Pavilion that will add to Clacton's leisure and tourism offer.
- 1.2 The application seeks the change of use for the whole Pavilion site and a small area of greensward to the east to an amusement park which will allow greater flexibility for the installation of attractions, rides and facilities below a certain height. The application also seeks to relocate the adventure golf course to the eastern end of the site and onto the greensward area which will make space for an extended building at the cliff-top level for additional indoor attractions and the creation of an outdoor water park. At the lower promenade and cliff-side level, the application also seeks permission to convert a redundant toilet block into a café/restaurant with new public toilets and outdoor seating area and to create sheltered areas at the Pavilion's eastern and western entrances.
- 1.3 The site falls within the Clacton Seafront Conservation Area and the Council has a duty to preserve and enhance the area's special character. Having considered the application against national and local planning policy and taken advice from Historic England, the Gardens Trust and the Council's own Trees Officer, your Officers are content that the area's character would be preserved and enhanced and that any harm would be substantially outweighed by the economic benefits.
- 1.4 Officers consider that this development is entirely consistent with adopted and emerging Local Plan policy and will have a positive impact on the local economy and Clacton's offer as a seaside tourist resort. Officers recommend the approval of planning permission subject to a number of conditions.

### **Recommendation: Approval**

That the Head of Planning be authorised to grant planning permission for the development subject to the following conditions:

1. Standard 3 year time limit.
2. Limit on the height of any permitted rides and attractions.
3. Details of materials, hard and soft landscaping and tree planting/removal.
4. Submission of a drainage strategy.

## 2. Planning Policy

### National Planning Policy Framework (NPPF)

- 2.1 The National Planning Policy Framework (March 2012) sets out the Government's planning policies and how these are expected to be applied at the local level.
- 2.2 Planning law requires that applications for planning permission be determined in accordance with the 'development plan' unless material considerations indicate otherwise. The NPPF doesn't change the statutory status of the development plan as the starting point for decision taking. Where proposed development accords with an up to date Local Plan it should be approved and where it does not it should be refused – unless other material considerations indicate otherwise. An important material consideration is the NPPF's 'presumption in favour of sustainable development'. The NPPF defines 'sustainable development' as having three dimensions:
- an economic role;
  - a social role; and
  - an environmental role.
- 2.3 These dimensions have to be considered together and not in isolation. The NPPF requires Local Planning Authorities to positively seek opportunities to meet the development needs of their area whilst allowing sufficient flexibility to adapt to change. Where relevant policies in Local Plans are either absent or out of date, there is an expectation for Councils to approve planning applications, without delay, unless the adverse impacts would significantly and demonstrably outweigh the benefits.
- 2.4 Section 1 of the NPPF relates to building a strong, competitive economy. It encourages Local Planning Authorities to support economic growth through the planning system and to support an economy fit for the 21<sup>st</sup> Century. Section 12 of the NPPF relates to conserving and enhancing the historic environment. It reinforces Councils' legal duty to seek to preserve and enhance the historic character of Conservation Areas when making planning decisions.

### Local Plan

- 2.5 Section 38(6) of the Planning Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the 'development plan' unless material considerations indicate otherwise. In the case of Tendring the development plan consist of the following:

**Tendring District Local Plan (Adopted November 2007)** – as 'saved' through a Direction from the Secretary of State.

Relevant policies include:

#### QL9: Design of New Development

Provides general criteria against which the design of new development will be judged.

#### QL10: Designing New Development to Meet Functional Needs

Requires development to meet functional requirements relating to access, community safety and infrastructure provision.

QL11: Environmental Impacts

Requires new development to be compatible with its surrounding land uses and to minimise adverse environmental impacts.

ER16: Tourism and Leisure Uses

Gives support to tourism and leisure uses where they are accessible to visitors and users, address traffic and public transport considerations, avoid undue disturbance to residential and wildlife areas; avoid adverse impacts on agricultural and help to improve damage or despoiled landscapes.

ER29: Amusement Centres

Supports amusement centres in specific resort areas which includes the Pavilion.

COM1: Access For All

Requires developments with public access to provide safe and convenient access to people of all abilities.

COM2: Community Safety

Requires developments to contribute toward a safe and secure environment and minimise the opportunities for crime and anti-social behaviour.

COM7: Protection of Existing recreational Open Space Including Children's Play Areas and Pitch and Non-Pitch Sports Facilities

Resists the developments that would prejudice the use or involve the loss of recreational open space including children's play areas, informal open space and parks and public gardens.

COM21: Light Pollution

Requires external lighting for new development to avoid unacceptable impacts on the landscape, wildlife or highway and pedestrian safety.

COM22: Noise Pollution

Requires noisy developments to be located away from noise sensitive developments such as hospitals schools and housing unless adverse impacts can be mitigated.

COM23: General Pollution

States that permission will be refused for developments that have a significant adverse effect through the release of pollutants.

EN17: Conservation Areas

Requires developments within Conservation Areas to preserve or enhance the character or appearance of that area.

TR4: Safeguarding and Improving Public Rights of Way

Requires that developments affecting an existing public right of way accommodate the definitive alignment of the path or, where necessary, seek a formal diversion.

#### CL2: Clacton Pavilion

Encourages proposals for the redevelopment or renovation of the Clacton Pavilion site for leisure purposes that include weather facilities in a flexibly designed building with pedestrian access from the upper or lower promenade.

#### CL3: Tourism Related Facilities along Clacton Seafront

States that tourist related facilities along Clacton Seafront which are capable of making a positive contribution to the historic context of the seafront will be progressively enhanced. The policy also resists developments that would have a detrimental effect on the tourism role of these facilities.

#### CL5: Amusement Centres

Confines amusement centres to the southern part of Pier Avenue, Clacton Pavilion and on the Pier.

### **Tendring District Local Plan Proposed Submission Draft (November 2012), as amended by the Tendring District Local Plan Pre-Submission Focussed Changes (January 2014).**

Relevant policies include:

#### SD9: Design of New Development

Sets out the criteria against which the design of new development will be judged.

#### PRO4: Priority Areas for Regeneration

Identifies Clacton Town Centre and Seafront as an 'Priority Area for Regeneration' where positive investment will be encouraged.

#### PRO7: Tourism

Supports proposals related to attracting visitors and promoting tourism including new and improved attractions and leisure activities at the district's pleasure piers, amusement parks and holiday parks.

#### PEO19: Green Infrastructure

Resists the loss of existing green spaces and promotes the creation of new ones.

#### PLA6: The Historic Environment

Sets out how the Council intends to understand, protect and enhance the district's historic environment, including Conservation Areas.

#### PLA7: Conservation Areas

Requires developments within Conservation Areas to preserve or enhance the character or appearance of that area.

#### COS1: Regeneration at Clacton Town Centre and Seafront

States that Clacton Pier and Clacton Pavilion will be protected as tourist attractions where the Council will support proposals for new and improved attractions and leisure facilities.

### **3. Relevant Planning History**

3.1 The site has the following relevant planning history:

93/00733/FUL	(Clacton Pavilion Site, Pier Gap, Clacton on Sea) Demolish existing pavilion building. Construction of new leisure building with shops, catering facilities and public toilet facilities	Approved	02.11.1993
95/00117/FUL	(Greensward to N.E. of Pavilion, Marine Parade East, Clacton on Sea) Use of land for mini themed golf purposes	Approved	14.03.1995
95/01362/FUL	(Clacton Pavilion, Pier Gap, Clacton on Sea) Construction of food court (part variation to design as approved 2.11.93 under planning permission TEN/93/0733)	Approved	19.12.1995
96/01523/ADV	(Al Fresco's Food Court, Clacton Pavilion, Pier Gap, Clacton on Sea) Shop display signage	Approved	06.01.1997
00/01348/FUL	Demolition of existing pavilion building, construction of new leisure building with shops, catering facilities and public toilet facilities. (Variation of design as approved under TEN/93/0733)	Approved	20.09.2000
03/01125/FUL	Refurbishment of existing pavilion building. Provision of new promenade at Marine Parade level, public toilet facilities, bowling alley, catering facilities, retail and leisure facilities.	Approved	03.09.2003
10/00119/CON	Demolition of colonnade at lower promenade level.	Approved	
10/00542/FUL	Refurbishment of existing pavilion entrance building at upper level to form entrance foyer retail unit, store and staircase down to lower level.	Approved	13.07.2010
10/01321/FUL	Variation of condition 6 of planning permission 03/01125/FUL to allow attractions to be placed on the forecourts. Shall not exceed the heights indicated within the zones shown on drawing No. 1215 HEIGHTS unless agreed in writing by the district planning authority in accordance with a scheme submitted on that behalf.	Approved	23.12.2010
15/01808/FUL	Change of use of open space to, and use of whole site as an	Current	

amusement park; the creation of a new water park; the relocation of the adventure golf; the extension of the Pavilion building at cliff-top level; the refurbishment of toilet block to provide a cafe/restaurant and public toilets, with associated infrastructure, landscaping and surfacing works.

#### 4. Consultations

TDC Building Control	Building regulation approval will be required for some of these works.
ECC Highways	The Highway Authority does not object to the proposals as submitted. The proposed diversion of the footpath will require liaison with the Public Rights of Way Officer at Essex Council who will ultimately approve any diversion.
ECC Public Rights of Way Officer	<p>It is noted that the Public Right of Way – Footpath 29 Great Clacton – has not been included within the site layout plan and Design and Access Statement. There is therefore a concern that no provisions have been made to retain the footpath on its Definitive Line through this proposed development.</p> <p>We would therefore urge the developers to revise the site layout plan and access statement to include all provisions (which would include any intentions to divert the path with accompanying plans) so their intentions are clear.</p> <p>The existing footpath has a recorded width of 2 metres, which by law would need to be retained, even if the developers choose to divert it.</p> <p>The following would need to be considered if this proposal is approved:</p> <ul style="list-style-type: none"><li>• If the path is retained on its Definitive Line and any development works are likely to interfere with user safety/access then the developers are required to apply for a Temporary Closure.</li><li>• If the developers require a diversion of the Definitive Line then an application to divert the footpath would need to be made to the Definitive Map team.</li><li>• The diverted route <b>MUST</b> be made available on the ground before any construction work on its original line is undertaken.</li></ul>
TDC Environmental Health	No comments to make.
TDC Trees and Landscapes	<p>The land is situated in the Clacton on Sea Conservation Area and currently forms part of the semi-formal greensward, gardens and promenade on the land between the highway and the cliff-slope fence. The trees on the land are afforded formal legal protection because they are situated within the conservation area.</p> <p>In order to show the condition of the trees on the land and to ascertain the extent of the constraint that they are development potential of the application site the applicant has submitted a detailed tree survey and</p>

report. The information provided is in accordance with BS5837: 2012 Trees in relation to design, demolition and construction.

Recommendations: The tree report accurately describes the health and condition of the trees and identifies those that will be retained and those that will need to be removed in order to facilitate the development or for arboricultural reasons. The report identifies the removal of 8 trees and the planting of 6 new trees. Taking into account the condition of the trees marked for removal it is considered that the proposed development will not have a significant detrimental impact on the character or appearance of the conservation area.

In order to show that the trees will be physically protected for the duration of the construction phase of any planning permission that may be granted a condition should be attached to ensure that the protection of the Root Protection Areas (RPA's) of the trees is in accordance with the above British Standard. A condition should also be attached to secure details of soft landscaping for the whole site including the centrally situated, broadly triangular section of cliff identified on the site plan as 'Embankment to be Landscaped'.

Historic England We are satisfied that the proposals would not cause harm to significance of the grade II listed Clacton Seafront Gardens or to the Clacton Seafront Conservation Area. The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

Essex County Council Flood Authority The proposed scale of development may present risks of flooding on-site and/or off-site if surface water is not effectively managed. In the absence of a drainage strategy, we object to this application and recommend refusal of planning permission until a strategy has been submitted.

The Gardens Trust This application has been identified as potentially affecting a registered landscape because of its proximity to the grade II Clacton Seafront Gardens on Marine Parade West, separated from the application site by Pier Gap. We note that the planning application, including the Heritage Impact Statement, completely fails to acknowledge the existence of this registered landscape. However, the proposed development would seem unlikely to have an impact on the setting of the registered landscape, and we have no objection to the application.

## 5. **Representations**

- 5.1 This application has attracted no comments, either in support or objection, from any local residents or businesses.

## 6. **Assessment**

### **The Site**

- 6.1 The recently refurbished Clacton Pavilion is one of the town's principal leisure and tourism facilities which occupies the cliff-side and cliff-top immediately east of Pier Gap, Clacton Pier and the Venetian Bridge off Marine Parade East. The Pavilion now contains a popular indoor amusement centre, Bowling Alley and bar/restaurant on its lower levels with outdoor attractions and rides, including an adventure golf course and the Food Court on the cliff-top/upper promenade section.



- 6.2 The site subject of this application includes the Pavilion site itself along with an additional piece of greensward, promenade and cliff-side to the east including the block of redundant public toilets overlooking the newly regenerated seafront and beach. On the opposite side of Marine Parade East are the Royal Hotel/Moon and Starfish, Liquor Lounge Nightclub, Ocean Hotel, Geisha Hotel, Pink Palace Hotel, residential apartments at Clearwater Reach and the Esplanade Hotel.

### **The Proposal**

- 6.3 This planning application seeks permission for a number of changes to the site which are outlined below:
- 1) Change of use of the whole application site to an amusement park which will afford it certain 'permitted development rights' that allow the erection of attractions, rides and facilities without the constant need to return to the local authority for planning permission so long as they fall within set parameters.
  - 2) The extension of the Pavilion building on its cliff top level to provide a new covered area to accommodate additional indoor amusements and attractions. The new building will incorporate the existing cliff-top entrance to the Pavilion but will extend its frontage onto Marine Parade East by approximately 30 metres to the east and 10 metres to the west and would extend back towards the cliff edge by just over 20 metres.
  - 3) The creation of an outdoor water park attraction on the seaward side of the new building at cliff top level.
  - 4) The relocation of the Adventure Golf from its current position to the area of greensward to the east which will require a diversion of the public footpath.
  - 5) The refurbishment of the currently vacant toilet block located on the cliff-side to the east of the Pavilion into a café/restaurant with re-instated public toilets and the creation of a covered walkway and outdoor seating area along the Cliffside between the new café/restaurant and the Pavilion's east entrance.
  - 6) The creation of a covered areas at the Pavilion's eastern Cliffside entrance and
  - 7) The demolition of the Food Court that currently occupies the cliff top east of the Venetian Bridge.
  - 8) Associated landscaping works that will require the removal of some trees and new and reinforced replacement planting and new hard landscaping.

### **Architectural Drawings**

- 1268A – 11 Site location plan
- 1264A – 03A Site plan
- 1268A – 01 Elevations (Sheet 1)
- 1268A – 02 Elevations (Sheet 2)
- 1268A – 10 Existing upper level entrance
- 1268A – 06 Main Pavilion existing elevations and plans

- 1268A – 09 Main Pavilion proposed elevations and plans
- 1264A – 08 Illustrative golf layout
- 1264A – 04 Floor Plan of new covered area
- 1268A – 07 Existing and proposed toilet block conversion and covered seating area and walkway to Pavilion

### **Reports and Technical Information**

- Planning Support Statement including Design and Access Statement
- Arboricultural Report
- Heritage Impact Assessment

### **Main Planning Considerations**

6.4 The main planning considerations are:

- The principle of development.
- Impact on the character and appearance of the Conservation Area.
- Loss of greensward.
- Trees.
- Noise and light pollution.
- Permitted development rights.
- Footpath diversion.
- Surface water flooding.

### **Principle of development**

6.5 The proposed development is entirely consistent with the Council's adopted and emerging Local Plan policies on tourism, Clacton seafront and the Pavilion site itself, all of which seek to promote the improvement and expansion of facilities and attractions.

### **Impact on the character and appearance of the Conservation Area**

6.6 The application site falls entirely within the Clacton Seafront Conservation Area that was formally designated in 2001. Conservation Areas are designated under the Planning (Listed Buildings and Conservation Areas) Act 1990 for their special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance.

6.7 Paragraph 131 of the NPPF requires local planning authorities, in determining planning applications, to take account of "*the desirability of new development making a positive contribution to local character and distinctiveness.*" For development proposals within, and affecting the setting of a Conservation Area, local character and distinctiveness is of particular importance and there is clear expectation, within the NPPF, that wherever possible development ought to make a positive contribution, rather than cause harm.

6.8 The applicant has submitted a Heritage Assessment in support of the application which identifies the important features of the Conservation Area and how the proposal seeks to respond to those.

6.9 Where 'substantial harm' to a designated heritage asset such as a Conservation Area would be caused, then planning permission should be refused unless it can be demonstrated

that the development is necessary to achieve substantial public benefits that outweigh the harm (paragraph 133). Where the harm would be less than substantial then that harm must be weighed against the public benefits of the proposed development (paragraph 134).

- 6.10 Policy EN17 'Conservation Areas' from the Council's adopted Local Plan supports the objective of preserving and enhancing the character and appearance of Conservation Areas, providing a practical set of criteria for judging development proposals which set out the circumstances under which development would cause harm and would therefore be refused permission.
- 6.11 Criterion a) of Policy EN17 states that development will be refused where *"it would harm the character or appearance of the Conservation Area, including historic plan form, relationship between buildings, the arrangement of open areas and their enclosure, grain, or significant natural or heritage features"*.
- 6.12 The Officers' assessment is that the most significant impact arising from the development will be the use of the additional area of undeveloped greensward for the potential relocation of the adventure golf course. That said, the proposed use and its open recreational nature is entirely consistent with the prevailing function and activity within this busy part of the Conservation Area which is associated with leisure and tourism and traditional seaside activities. A high quality landscaping scheme will soften the visual impact of any development in this area and should result in some visual enhancement to an area that is currently barren and unremarkable in comparison with many parts of Clacton's greensward.
- 6.13 The proposed cliff-top building is another significant change but it has been well designed to compliment and enhance the appearance of the cliff-top Pavilion entrance, avoids excessive height and uses glass doors, windows and canopies to minimise the bulkiness of the structure and provide an active and partly transparent frontage. The building would also occupy an area of the site which is already in use for outdoor attractions and rides which have a strong bearing on the appearance of the area and which already restrict views through the site.
- 6.14 In Officers' view, the development would not have a significant adverse impact on the character and appearance of the Conservation Area and would not conflict with this criterion of the policy.
- 6.15 Criterion b) states that development will be refused where *"the height, siting, form, massing, proportions, elevation, design, or materials would not preserve or enhance the character of an area"*. As stated above, the main building proposed for the site is of a design that carefully takes into account the character and appearance of the area and would not conflict with this criterion of the policy.
- 6.16 Criterion c) states that development will be refused where *"(for development located outside a Conservation Area) it would prejudice the setting and surroundings of a Conservation Area or harm the inward or outward views"*. This criteria does not apply to the application proposal as it lies fully within the Conservation Area.
- 6.17 Criterion d) states that development will be refused where *"the proposed land use would not preserve or enhance the function and character of a Conservation Area"*. The Officers'

assessment is that the proposed use of the site is entirely compatible with the function and character of this part of the Conservation Area which is associated with leisure, tourism and traditional seaside activities.

- 6.18 Criterion e) states that development will be refused where *“it would involve the demolition of a building or structure positively contributing to the character or appearance of the area”*. The only notable demolition of a building or structure within this proposal is that of the Food Court to the east of the Venetian Bride which is an unremarkable modern and heavily modified building which is not considered to play a particularly important role in the special architectural or historic character of the Conservation Area. The proposal does not therefore fall foul of this criterion.
- 6.19 Policy PLA7 in the emerging Local Plan similarly sets out criteria for the consideration of planning applications affecting Conservation Areas. The emerging policy is worded more positively to set out the circumstances under which applications would be approved.
- 6.20 Criterion a) of PLA7 requires the proposal to be *“of a design and/or scale that preserves or enhances the special character and appearance of the area and is compatible with neighbouring buildings and spaces”*. As explained above, Officers consider that the development is entirely consistent with the character of the area which is dominated by leisure, tourism and traditional seaside activities and that the proposed buildings have been carefully designed to minimise any potentially adverse visual impacts.
- 6.21 Criteria b) requires that the proposal *“uses building materials, finishes and building techniques, including features such as walls, railings, gates and hard surfacing, that are appropriate to the local context”*. Some of the finer details of the above, such as materials, would need to be agreed separately through conditions prior to commencement, but the design and proposed layout of the development shows the opportunities to enhance the character of the area through both soft and landscaping and the proposed appearance of the new buildings is acceptable to Officers.
- 6.22 Criterion c) requires that the proposal *“retains historically significant boundaries, important open spaces and other elements of the area’s established pattern of development, character and historic value, including gardens, roadside banks and verges”*. The development would not undermine the established pattern of development and would serve to reinforce and expand upon activities that are already in existence. The part of the greensward proposed for use as part of the scheme is not considered an important enough feature within the Conservation Area to justify refusal of permission and the proposals for the Cliffside, including the re-use of the redundant toilet block, are considered to be significant enhancement.
- 6.23 Criterion d) requires the retention and restoration of *“traditional features such as shop fronts, walls railings, paved surfaces and street furniture”* and requires that development *“improves the condition of structures worthy of retention”*. In seeking to re-landscape the area, retain and enhance the existing cliff-top entrance to the Pavilion and bring the redundant toilet block back into use, this proposal meets with this criterion.

- 6.24 Criterion e) requires that the development “*does not harm important views into, from or within the area*”. Officers consider that whilst views through the site will be altered by the development, they will not be harmed as the area affected already has permitted development rights for the erection of attractions, rides and facilities which obstruct some views. Careful consideration has been given to the proposed covered walkway at the Pavilion’s western entrance onto Pier Gap on views from the top of the steps next to the Venetian Bride down to the entrance of the Pier. Officers consider that such important will be maintained.
- 6.25 Criterion f) requires that the development “*protects trees, hedgerows and other significant landscape features and incorporates landscaping appropriate to the special character and appearance of the Conservation Area*”. The proposal does require the loss of some trees and vegetation along the Marine Parade East frontage, but the majority will be retained and replanting through a comprehensive landscaping scheme will ensure that the character and appearance of the area is enhanced rather than harmed.
- 6.26 Criterion g) requires the “*removal of unsympathetic features and the restoration or reinstatement of missing features*”. For this proposal, Officers do not consider such a consideration to be relevant.
- 6.27 Having assessed the proposal against the criteria of the adopted and emerging Conservation Area policies, Officers conclude that the harm to the Conservation Area would not be ‘substantial’, as per paragraph 133 of the NPPF, and that refusal of planning permission on conservation grounds would not be justified. The harm is considered to be ‘less than substantial’ in the context of NPPF paragraph 134 with elements of the scheme resulting in an overall enhancement. In weighing the harm against the wider public benefits in accordance with the NPPF, Officers consider that the economic benefits of the scheme far outweigh any concerns about the impact on the character and appearance of the Conservation Area.
- 6.28 The comments of Historic England, the Gardens Trust and the Council’s own Principal Trees and Landscapes Officer support this assessment. They have indicated that they have no objection to the proposal in terms of its potential impact on the character and appearance of the Conservation Area and the registered park and garden located on the other side of the Venetian Bride.

### **Loss of greensward**

- 6.29 The development proposes change of use across the whole site include a section of the greensward immediately east of the existing Pavilion complex. This land is shown as protected open space in both the Council’s adopted and emerging Local Plans as protected open space. However as the proposed use for the relocation of the adventure gold course is recreational and open in nature and will help to facilitate the wider development, Officers consider that the loss is justified and outweighed by the benefits of development.

### **Trees**

- 6.30 Trees within Conservation Areas are afforded special protection for their contribution toward the character and appearance of the area and the Council’s consent is required for any removal or lopping of trees. There are a number of notable trees affecting the site along the

edge of the greensward area along Marine Parade East. The application has submitted an Arboricultural Report which identifies the trees on the site and assesses their health and contribution to the character of the area.

- 6.31 It is proposed that three Holm Oak trees will need to be removed to facilitate the development but that being positioned close together, they have limited space to develop good form. It is also proposed that two other Holm Oaks, two Hollies and one Pine be removed as they are in poor condition.
- 6.32 As mitigation, it is proposed that Palm Trees currently located within the adventure golf park be moved to this area and that additional Maritime Pine Trees and Cabbage-Palm Trees be planted with sufficient space to allow them to grow in a healthy manner.
- 6.33 The Council's Principal Trees and Landscapes Officer has considered the applicant's arboricultural assessment and has commented on the application to indicate no objection subject to conditions that will safeguard the root protection areas for trees to be retained and require landscaping details to be submitted for approval.

#### **Noise and light pollution**

- 6.34 The expansion of a major tourism and leisure facility will give rise to the potential for additional noise and light pollution in the area that might affect residents and businesses in the area. The Council's Environmental Health Officers have been consulted on the proposal but have made no objections and not requested any conditions.

#### **Permitted development rights**

- 6.35 The use of the Pavilion as an amusement park affords it with certain permitted development rights that enable the operators to erect rides, attractions and other associated structures without the need for the Council's permission. Structures are however limited to 25 metres in height which in this prominent part of the Conservation Area is considered too high. The applicants have indicated that they have no desire to locate attractions of this height upon the site and have agreed that a planning condition can be applied that would further restrict the height to 15 metres unless otherwise agreed by the Council in writing.

#### **Footpath diversion**

- 6.36 As part of the application, it is proposed to relocate the adventure golf park to the east and, in doing so, divert what is a public footpath. In so far as the overall scheme is concerned, Officers are content that this can be achieved in an acceptable way but the applicants will still require formal consent from Essex County Council. The advice of the Public Rights of Way Officer at Essex County Council is set out earlier in this report which specifies the consents that would be required and legal requirements that would need to be followed. Whilst it is noted that ECC's preferred solution would be to follow the existing route of the Definitive footpath, there are practical reasons for seeking the diversion and Officers will work with ECC and the applicants to ensure the proper procedures are followed, if the Committee is minded to approve.

#### **Surface Water Flooding**

- 6.37 Essex County Council as the Lead Flood Authority has questioned the lack of a Flood Risk Assessment or drainage strategy for the development and has issued a holding objection. However, as the development involves a site of less than 1 hectare in size, there is no requirement under the NPPF for a Flood Risk Assessment. Also, because the majority of new built development will take place on top of a building that already exists, Officers consider that any increase in surface water flooding resulting from the development is likely to be negligible. However to ensure this matter is addressed it is recommended that a drainage strategy be required through a condition if the Committee is minded to approve.

### **Conclusion**

- 6.38 The application has been assessed in relation to the policies of the NPPF and relevant adopted Local Plan and emerging Local Plan in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2014. The most important consideration has been the impact upon the character and appearance of Clacton Seafront Conservation Area for which the Council has a legal duty to preserve and enhance.
- 6.39 Officers consider that the proposal is entirely consistent with the Council's aims and aspirations as set out in both its adopted and emerging Local Plan policies and will represent a significant economic benefit to the Clacton which would outweigh any concerns about visual impacts, the loss of a small piece of the greensward and impacts on trees and surface water flooding.

### **Background Papers**

None