

## DELEGATED DECISION OFFICER REPORT

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**Application:** 21/00284/FUL **Town / Parish:** Clacton Non Parished

**Applicant:** Clacton Pier Co. Ltd

**Address:** The Pier Clacton On Sea Essex

**Development:** Erection of observation wheel and any associated ancillary development.

### **1. Town / Parish Council**

Clacton – No Town  
Council

### **2. Consultation Responses**

The Gardens Trust  
16.03.2021

Thank you for consulting The Gardens Trust (GT) in its role as statutory consultee with regard to proposed development affecting a site listed by Historic England (HE) on their Register of Parks and Gardens as per the above application. We have liaised with our colleagues in the Essex Gardens Trust (LGT) and their local knowledge informs this joint response.

This application is for a 33m high ferris or observation wheel which would be located between the Venetian bridge at the end of Pier Avenue and the entrance to Clacton pier. This is a confined space, vibrant and lively, occupied by attractions. In our opinion, the wheel would be poorly related to it and the surrounding buildings, dominating the bridge and the pier entrance which retains elements of its Art Deco design.

More particularly, it would have an adverse impact on the Seafront Gardens to the west, which are a grade II Registered Park and Garden. Within them is the grade II listed war memorial, an imposing statue of an angel bearing a sword. Originally laid out by the Council's surveyor Daniel J. Bowe in 1921, the gardens were restored in 1999, and added to the statutory list in 2002. Extending in a long narrow strip from the Martello Tower to the Venetian Bridge, they comprise a series of themed gardens (Sensory, Mediterranean, 1920s, Rose, and Garden of Remembrance). They are one of the most attractive features of the resort, well used and much appreciated by visitors and residents alike.

We feel that the proposed location for the ferris wheel is unsuitable and would be harmful to the setting of the Seafront Gardens and we therefore object to the application.

Gardens Trust  
18.05.2021

Having taken this additional information into consideration, we have not changed our position of objection. Particularly as we now appreciate that there could be two ferris wheels, one at Clacton Pavilion and the other at Clacton Pier. The Pavilion has just got one in operation this month. As statutory consultees we were not consulted on this which is regrettable, as you will be aware that it is your obligation under in Article 18/Schedule 4 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 to inform us of any planning application which may affect a registered park and garden. We would be grateful if you could please ensure that your database is updated to make sure this does not happen again.

The prospect of there being two wheels close to each would certainly have a negative impact on the setting of the Seafront Gardens, which, as you are aware is a grade II Registered Park and Garden.

Building Control and  
Access Officer  
01.04.2021

Facilities will be required to comply with the Equality Act and other allied legislation.

War Memorial Trust  
23.03.2021

Having reviewed the details currently submitted in support of the planning application we do not feel that these are sufficient for determining the full impact of the proposals on the Listed war memorial and would urge the Council to request fuller and more robust details before determining this application.

The National Planning Policy Framework has policies which are designed to protect the setting of heritage assets (194) this states that where there is substantial harm proposed to a heritage asset or its setting then there should be a clear justification for this. The war memorial currently sits on an elevated site which affords it some prominence in views within the Conservation Area. The introduction of a substantial structure of significant height within its vicinity will affect the views and thus the setting and prominence of this Listed structure. It is hard to determine the full extent of this harm based on the information provided as it does not include mockup photographs showing the structure in situ. However, what is clear is that it would not meet the criteria of the Local Plan noted in the application documents. Most notably the criteria that:

1. The development relates well to its site and surroundings particularly in relation to its siting, height, scale, massing, form design and materials.
2. The development respects or enhances views, skylines, landmarks, existing street patterns, open spaces and other locally important features

It is also noted within the documentation that the proposed site is the least harmful, this statement is not qualified as there is no discussion of alternative locations and how these impact the setting of the Listed memorial.

The Trust feels that this current application should be refused due to lack of information and justification for the harm proposed to the setting of the Listed war memorial and the fact that the proposals do not meet the criteria of the local plan.

Historic England

Historic England Advice

## The significance of the historic environment

The application site is located within the Clacton Seafront Conservation Area. In the area's Character Appraisal its special character is summarised as 'being derived from its seaside architecture and formal planned street pattern.

The area is the heart of the coastal resort and includes Victorian and Edwardian seaside buildings that were part of the early planned development of the resort, as well as formal gardens and pavilions, and important landmarks like the Martello Tower F and the Pier.'

The proposed site of the Wheel on the forecourt of the Pier is close to the Scheduled Martello Tower F, grade II listed Martello Tower and Brick Lined Moat and the grade II listed Clacton-on-Sea War Memorial. The site is also adjacent to the grade II Registered Clacton Seafront Park and Garden.

## The proposals and their impact on the historic environment

The proposals involve erection of an Observation Wheel/Ferris Wheel on the forecourt of the Pier in connection with the 150th year celebrations of the development of Clacton-on-Sea as a seaside resort and the establishment of the Pier.

The Wheel would have a diameter of 30m and an overall height of 33.1m and be located in the area to the front of the main entrance onto the pier, currently occupied by an outdoor seating area. The existing seafood kiosk would be demolished to facilitate access and circulation for customers at the base of the wheel.

The Wheel would be supported on eight stanchions and comprise a white tubular construction with 24 spokes that would include 24 gondolas, with a total seating capacity of 144.

The installation of a Wheel with an overall height and scale of that proposed would inevitably have a significant impact on the conservation area and the setting of nearby designated heritage assets.

The Planning & Heritage Statement, Visual Impact Assessment produced by Stanfords identified the heritage assets but did not assess their significance or their setting. The recently submitted Assessment of significance and impact to the identified heritage assets (Addendum Report) produced by Stanfords has satisfactorily addressed that issue.

## The Policy context

The NPPF sets out the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, (paragraph 192).

It establishes that great weight should be given to an asset's conservation and the more important that asset, the greater that weight should be, paragraph 193. 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 significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification, (paragraph 194).

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal, including securing its optimum viable use (paragraph 196).

Setting is then defined in the Framework as 'the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset and may affect the ability to appreciate that significance or may be neutral'.

#### Historic England's position

We were re-consulted on 9 May 2021 regarding additional documentation submitted by the applicants. We stated previously that we had no objections in principle to the proposed Observation Wheel due to its seafront location, but required further information in relation to demonstrating the impact that the installation of a 33m high and 30m in diameter structure would have on the conservation area and the setting of designated heritage assets in close proximity to the site. We stated that the information should include a Statement of Significance and Impact on the designated heritage assets in the vicinity; views comprising photographs, photomontages/CGIs looking towards the site of the proposed wheel; additional views from the Martello Tower, from the end of the pier and further east and west along the promenade; elevational drawings of the wheel in the context of streetscenes; details of the design and materials of the ancillary structures connected with the operation of the wheel and details of the lighting strategy including locations.

We are satisfied that having considered the additional information contained in the Assessment of significance and impact to the identified heritage assets (Addendum Report) produced by Stanford, the impact of the wheel has now been adequately assessed.

We consider the proposed Observation Wheel would not cause harm to the significance of the Clacton Seafront Conservation Area or to the significance of nearby heritage assets as a result of the impact the wheel would have on their setting.

#### Recommendation

Having considered the additional information submitted in support of the proposals, Historic England now have no objections to the application on heritage grounds.

We consider that the application now meets the requirements of the NPPF, in particular paragraph numbers 194 and 196.

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they

possess.

You should bear in mind section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

You should also bear in mind section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course.

Essex County Council  
Heritage

The application is for erection of observation wheel and any associated ancillary development.

The Site is located in a Conservation Area and adjacent to a number of heritage assets.

I have reviewed the correspondence from Historic England and my view broadly concurs. As such I have no objection to this application.

ECC Highways Dept

No comments received

Environmental Protection  
16.03.2021

With reference to the above application, we have had the chance to review the proposal and relevant documents and confirm we have the following comments and observations to make.

Construction Method Statement: In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Protection ask that the following is submitted:

Prior to the commencement of any construction or demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, Environmental Protection. This should at minimum include the following where applicable.

- Noise Control

1) The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

2) No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00(except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holidays.

3) The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228.

4) Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).

5) Prior to the commencement of any piling works which may be

necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Pollution and Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents. 6) If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Pollution and Environmental Control prior to the commencement of works.

- Emission Control

1) All waste arising from the demolition process, ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.

2) No materials produced as a result of the site development or clearance shall be burned on site.

3) All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions from the site whilst works of construction and demolition are in progress.

4) All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

Lighting: Any lighting of the development shall be located, designed and directed [or screened] so that it does not [cause avoidable intrusion to adjacent residential properties/ constitute a traffic hazard/cause unnecessary light pollution outside the site boundary]. "Avoidable intrusion" means contrary to the Code of Practice for the Reduction of Light Pollution issued by the Institute of Lighting Engineers.

Civil Aviation Authority      No comments received

**3. Planning History**

94/01489/FUL	(Clacton Pier, Clacton on Sea) Access steps from pier forecourt onto beach	Approved	14.03.1995
02/02269/FUL	Change of use to pie and mash take away and cafe	Approved	31.01.2003
04/02208/FUL	Change of use to tea room with kitchen facilities	Approved	05.01.2005
17/01442/FUL	1no. set of timber beach access steps to the east side, and 1no. replacement set to the west side for the public access and emergency evacuation.	Approved	02.02.2018

20/01261/MMO	Proposal to rebuild corner of rides deck (destroyed in February 2020 storm).	Determination	05.10.2020
21/00284/FUL	Erection of observation wheel and any associated ancillary development.	Current	

#### **4. Relevant Policies / Government Guidance**

NPPF National Planning Policy Framework February 2019

National Planning Practice Guidance

Saved policies in the Adopted Tendring District Local Plan 2007 (part superseded)

QL11 Environmental Impacts and Compatibility of Uses

EN17 Conservation Areas

ER16 Tourism and Leisure Uses

ER29 Amusement Centres

EN1 Landscape Character

EN23 Development Within the Proximity of a Listed Building

CL3 Tourism Related Facilities Along Clacton Seafront

QL6 Urban Regeneration Areas

TR10A General Aviation

COM1 Access for All

COM2 Community Safety

COM21 Light Pollution

COM22 Noise Pollution

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017) (Section 1 adopted on 26th January 2021)

SP1 Presumption in Favour of Sustainable Development

SP7 Place Shaping Principles

SPL3 Sustainable Design

PP8 Tourism

PPL8 Conservation Areas

PPL9 Listed Buildings

CP1 Sustainable Transport and Accessibility

### **Status of the Local Plan**

The 'development plan' for Tendring is the 2007 'adopted' Local Plan. Paragraph 213 of the NPPF (2019) allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 48 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. In this latter regard, as of 26<sup>th</sup> January 2021, 'Section 1' of the emerging Local Plan for Tendring (Tendring District Local Plan 2013-2033 and Beyond Publication Draft) has been adopted and forms part of the 'development plan' for Tendring.

Section 1 of the Local Plan (which sets out the strategy for growth across North Essex including Tendring, Colchester and Braintree) has been examined by an Independent Planning Inspector who issued his final report and recommended 'main modifications' on 10<sup>th</sup> December 2020. The Inspector's report confirms that, subject to making his recommended main modifications (including the removal from the plan of two of the three 'Garden Communities' proposed along the A120 i.e. those to the West of Braintree and on the Colchester/Braintree Border), the plan is legally compliant and sound and can proceed to adoption. Notably, the housing and employment targets in the plan have been confirmed as sound, including the housing requirement of 550 dwellings per annum in Tendring.

The Council has now formally adopt Section 1 of the Local Plan, in its modified state, at the meeting of Full Council on 26<sup>th</sup> January 2021, at which point it became part of the development plan and carries full weight in the determination of planning applications – superseding, in part, some of the more strategic policies in the 2007 adopted plan.

The examination of Section 2 of the Local Plan (which contains more specific policies and proposals for Tendring) will proceed in early 2021 and two Inspectors have been appointed by the Secretary of State to undertake the examination, with the Council preparing and updating its documents ready for the examination. In time, the Section 2 Local Plan (once examined and adopted in its own right) will join the Section 1 Plan as part of the development plan, superseding in full the 2007 adopted plan.

Where emerging policies are particularly relevant to a planning application and can be given weight in line with the principles set out in paragraph 48 of the NPPF, they will be considered and, where appropriate, referred to in decision notices.

In relation to housing supply:

The NPPF requires Councils to boost significantly the supply of housing to meet objectively assessed future housing needs in full. In any one year, Councils must be able to identify five years' worth of deliverable housing land against their projected housing requirements (plus an appropriate buffer to ensure choice and competition in the market for land, account for any fluctuations in the market or to improve the prospect of achieving the planned supply). If this is not possible, or housing delivery over the previous three years has been substantially below (less than 75%) the housing requirement, paragraph 11 d) of the NPPF requires applications for housing development needing to be assessed on their merits, whether sites are allocated for development in the Local Plan or not.

With the adoption of the modified Section 1 of the emerging Local Plan, the Councils 'objectively assessed housing need' of 550 dwellings per annum has been found 'sound' and there is no housing shortfall. The Council is able to report a significant surplus of housing land supply over the 5 year requirement, in the order of 6.5 years.

## **5. Officer Appraisal (including Site Description and Proposal)**



## Site Description

The site forms part of the forecourt to Clacton Pier, between the Venetian bridge and the entrance onto the pier itself. It was previously occupied by a single storey seafood kiosk known as 'Tubby Issacs' which was a rectangular building with a rendered finish, steel shutters on two sides and a plain tile roof. It is one of two similar kiosks erected either side of the forecourt, having been erected in the mid 1990's. The remainder of this section of the forecourt is occupied by a series of wooden tables and benches as part of a sitting/eating area. This section of the forecourt is suspended over the beach, although the central section of the forecourt is paved as a continuation of Pier Gap. The second kiosk serves ice creams and will be unaffected by this application.

The application site is located within the Clacton Seafront Conservation Area, which also includes the pier itself and the gardens to either side. This conservation area is relatively new, having been designated in 2001. The seafront gardens themselves are listed as Grade II park and gardens as is a war memorial located within the gardens. There are also several other listed buildings and/or buildings of historic significance in the vicinity, including the grade II listed war memorial, an imposing statue of an angel bearing a sword. In terms of the park and gardens, they extend in a long narrow strip from the Martello Tower to the Venetian Bridge, and comprise a series of themed gardens (Sensory, Mediterranean, 1920s, Rose, and Garden of Remembrance). These gardens are indeed well used and much appreciated by visitors and residents alike.

## Proposal

This application seeks permission to erect an observation wheel for pleasure purposes on the forecourt of the pier and associated development including structural piling work, as outlined within the submitted structural report, and ancillary development incorporating cabins, operator booth and attraction railings.

The wheel would have a diameter of 30m and an overall height of 33.1m and be located in the area to the front of the main entrance onto the pier, currently occupied by an outdoor seating area. The existing seafood kiosk would be demolished to facilitate access and circulation for customers at the base of the wheel.

The wheel would be supported on eight stanchions and comprise a white tubular construction with 24 spokes that would include 24 gondolas, with a total seating capacity of 144.

The operation of the wheel is silent through the use of tyres and a hydraulic operation. The wheel is not a thrill ride unlike many of the other attractions on the pier itself. It would be open for use 7 days per week, between the hours of 9.00am and 10.00pm.

In terms of illumination, the outer masts or stanchions will feature chaser lights. The wheel itself as well as the gondolas will have static lights, with 'cool' white lights in use. Four floodlights will be placed on the forecourt to illuminate the platform for safety reasons during low light conditions. All lighting is low power consumption LED.

As the wheel will be placed on part of the pier platform, this application includes a structural report to cater for the leg loads, with the provision of 8 piles and four pile caps to provide appropriate support.

## Appraisal

### Principle/Policy Considerations

The site is located within an area shown on the adopted Local Plan 2007 to be retained for amusement purposes and employment purposes. In recognition of tourism's importance locally the Council states that it will encourage development which will provide new attractions and facilities.

The adopted local plan also specifically considers the need to enhance Clacton Seafront for tourism purposes under saved policy CL3. This policy states;

Tourism related facilities, features and amenities along Clacton Seafront, including seafront kiosks, toilets, shelters and other buildings, structures, features and amenities used or enjoyed for tourism-related purposes and which are capable of making a positive contribution to the historic context of the seafront will be progressively enhanced. Development which would have a detrimental effect on the tourism role of the facilities, features and amenities will not be permitted.

Emerging Local Plan Policy PP8 relates to tourism proposals and in particular states that; to attract visitors to the Tendring District and support economic growth in tourism, the Council will generally support proposals that would help to improve the tourism appeal of the District to visitors, subject to other relevant policies in the Local Plan. In particular, the policy states that the Council will support appropriate proposals for new and improved attractions and leisure activities at the District's pleasure piers, amusement parks and holiday parks.

The site is also within the designated Clacton Seafront Conservation Area. Saved policy EN17 of the adopted local plan and supporting text indicates the value of those conservation areas, the character or appearance of which it is desirable to preserve or enhance. Saved policy EN23 also considers development within the proximity of a listed building, indicating that proposals that would adversely affect the setting of a Listed Building, will not be permitted.

Having regard to the above policies, and strictly from an 'in principle' perspective, the provision of an observation wheel within a central and sustainable location within what is the core tourism area is acceptable in principle. However, in light of the sensitive location of the site as outlined above, the tourism benefits of the proposal have to be assessed against the visual and heritage impacts, residential amenity impacts and other considerations outlined below.

#### Visual/Heritage Impacts

Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 states that in considering whether to grant planning permission [or permission in principle] for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State 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.

Moreover, the NPPF sets out the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, (paragraph 192).

It establishes that great weight should be given to an asset's conservation and the more important that asset, the greater that weight should be, as per paragraph 193. 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 significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification, (paragraph 194).

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal, including securing its optimum viable use (paragraph 196).

Historic England have been re-consulted following the submission of an updated heritage assessment and an additional document showing CGIs and viewpoints of the wheel in situ. Upon receipt of this information Historic England responded as follows;

'it is considered that the proposed Observation Wheel would not cause harm to the significance of the Clacton Seafront Conservation Area or to the significance of nearby heritage assets as a result of the impact the wheel would have on their setting'.

As such Historic England now have no objections to the application on heritage grounds. They consider that the application now meets the requirements of the NPPF, in particular paragraph numbers 194 and 196. Furthermore, ECC Place Services (Heritage) confirm that they have no objections to the proposal and concur with Historic England's comments.

The Gardens Trust and the War Memorial Trust maintain their objections to the proposed wheel given the impact upon the listed gardens and war memorial. However officers consider that the additional information provided demonstrates that whilst the wheel will be apparent it will only be in the context of the pier and immediate hinterland itself. It is considered that due to the context, location, form and design of the structure it will not cause harm to the significance of the Clacton Seafront Conservation Area or to the significance of other nearby heritage assets. Having regard to the character and nature of the area as whole (a bustling seaside resort), it is considered that the structure will mostly be seen and observed by users/visitors/residents as part of this wider English seaside resort and also as part of the town's overall tourism offer.

The Garden's Trust also raise the cumulative impact of an existing wheel sited at on the adjacent Pavillion site. However in this respect it must be noted that the Pavilion wheel is sited on a temporary basis and is due to be removed from site at the end of October 2021. Consequently, the visual overlap of both structures will be for a limited time period only.

Overall it is considered that the development would not harm the character or appearance of the conservation area setting (including the art deco frontage of the Pier) and the structure would suitably preserve the strong tourism function that is a key component of the conservation area in this location. Furthermore, the wheel would not adversely harm inward and outward views of the conservation area and does not involve the demolition of a building (Tubby Issacs Kiosk) that has historic merit, given that it was constructed in the 1990's.

In terms of wider views of the wheel it is noted that the application site is some 9m lower than the surrounding gardens and upper promenade. Thus, while the full height of the wheel, platform and associated facilities at the base of the feature will be visible from the immediate forecourt, lower promenade and steps alongside, the view from the surrounding gardens and along the coastline will be limited to the wheel itself. These views are also interrupted by the considerable array of seafront structures, vegetation and other commercial/tourism buildings associated with the area.

Therefore, the proposed development is considered to meet the requirements of national and local planning policies noted above.

### Residential Amenities

The operation of the wheel is silent. The nature of the ride is not a thrill seeker, therefore no additional noise is likely other than customers congregating in the entrance queue. This has to be balanced against the noise from the existing outdoor seating area. With the location of the wheel on the pier, no undue increase in noise levels is anticipated beyond that experienced from the pier leisure attraction itself. There are no residential properties nearby. The Royal Hotel is located 110m from the pier entrance and the opportunity for any disturbance to guests will be minimal if at all, against the backdrop of the night time activities along the seafront and closure of the wheel at 10.00pm.

The Council's Environmental Protection Team have advised of the need to consider lighting impacts upon local residents and noise associated with piling activities. However, as outlined above, there are no residential receptors in close proximity to the application site that would fall to be adversely affected by the proposal.

As such the operation of the wheel is not considered to cause any significant harm to residential amenities in the locality.

### Other Considerations

The Civil Aviation Authority has been consulted but has not provided any comments upon the proposal within the statutory time period.

The Council's Building Control Team have advised of the need for the proposal to comply with the Equality Act and other allied legislation. This will be communicated to the applicant via an advisory on the decision notice.

The piling work that has taken place may require license consent from the Marine Management Organisation due to being located below the Spring Hide Tide Water Mark. An advisory will therefore be included on the decision notice outlining the need to ensure the applicants are aware of this requirement.

7 letters of support have been received outlining the following comments;

- This year marks the 150th anniversary of the founding of Clacton-on-Sea and it is hoped, COVID permitting, that the town can celebrate this with a number of events throughout the year. The erection of the wheel is one of these which will provide a new attraction for the town with the opportunity for members of the public to have an excellent view of Clacton as it is now and how it has developed.
- The objections from a number of heritage bodies are overplaying the visual impact, certainly on buildings such as the two Martello Towers mentioned, which are some distance from the proposed site and I cannot see how they would be impacted at all. In fact, quite the reverse as visitors would be able to get a good view of them from the wheel.
- The only amenities near to the proposed site are the Gardens and the War Memorial, but, again, I cannot really see that this would have an adverse effect on them as the Wheel would be down on the lower Prom, while the Gardens and Memorial are at road level.
- As a local historian, I can only see this proposal being good for Clacton in its 150th anniversary year.
- Such attractions are synonymous with seaside piers and the British coast, they are exactly what one would expect to see in such a location. More importantly is that they appeal to all ages and produce much needed revenue from age groups that do not necessarily utilise the other amusement offerings that the pier provides.
- In recent years the local authorities' planners have seen fit to permit the development of the neighbouring pavilion into an amusement park, and the establishment of two wheels is not indifferent. It is clear that competition is healthy and stimulates the drive and ambition of operators to achieve higher standards.
- The colour scheme matches the front elevation of the pier, lighting is by way of classis static white lighting not dissimilar to the lighting that was seen around the perimeter of the pier buildings in its heyday.
- The wheel is not a solid structure and persons are able to see through the structure and so the 1930's art deco frontage to the East of the pier will continue to be prevalent to visitors.
- The pier has had a tough 2020 and hopefully with all the investment done a spring board into the next 150 years.
- The Pier is such a significant asset for the town and district and is seen by many as the reason for visiting Clacton On Sea. It has undergone significant improvement over recent years under the current ownership and this new attraction of an observation wheel can only be a boost to the local economy.
- The National Piers Society supports the planning application for the Observation Wheel. Victorian piers have significant ongoing maintenance costs due to their nature & age. Clacton Pier is fortunate to have proactive owners seeking to secure the financial sustainability of the pier by maintaining the structure & investing in new attractions. The Observation Wheel will be a valuable addition to the pier's offering & will increase reinvestment into the pier after the most difficult trading season in 80 years, making a significant contribution to the pier's financial sustainability.
- In 2020 Clacton was awarded 'Pier of the Year' due to the continued investment in the pier & new attractions. The Society was impressed by the owners' respect for the pier's heritage & their contribution to the wider regeneration of Clacton as a resort. The Society believes that the proposed Observation Wheel corresponds with the long-term strategy for the pier & the Council's strategies for Clacton's seafront.

A number of letters of observation have been received during the course of the application highlighting the following points (an officer response is provided in brackets);

- application not validated for 2 and a half weeks (that was the average time for validation of a planning application at time of submission)
- no consultations/adverts published (the correct statutory consultees have been consulted along with the correct publication of the application through a site notice and advert)
- DAS not provided (a supporting statement and updated heritage statement has been provided)
- Aircraft Risk Assessment not provided (Civil Aviation Authority has been consulted but has not commented within the statutory deadline for comments)
- Demolition of Tubby Issacs Kiosk is detrimental (The kiosk is under the 115 cubic metres size to required demolition consent in a conservation area, notwithstanding that point the kiosk was constructed in the 1990s and has little historic merit)
- Full details of structure and ancillary development needs to be submitted (additional elevations and details of the structure has been provided along with a structural report)
- Loss of parking/servicing (the wheel is to be located in an area more recently utilised as a seating area. Furthermore the parking and serving area to the front of the pier entrance remains unaffected by the proposals)
- Heritage statement does not assess significance of assets in the vicinity of the site in accordance with the requirements of the NPPF (This point was raised by Historic England/Place Services and an updated heritage statement was subsequently provided)
- Supporting statement simply shows an arrow of where wheel would be sited (again following consultations responses from heritage bodies updated CGIs have been provided showing the wheel in situ)
- Existence of existing wheel at the Pavilion site weighs in the planning balance as an alternative site with permission exists (as stated above the Pavilion wheel is sited on a temporary basis only. The visual overlap of both wheels would therefore only exist for a limited period of time)
- Fully detailed constructed method statement required (A full method statement is not considered to be necessary in this instance due to the distance to the nearest residential properties and the presence of intervening buildings and structures screening any potential noise)
- Harm to Art Deco frontage of the Pier (The wheel is not a solid structure and persons are able to see through the structure and so the 1930's art deco frontage to the East of the pier will continue to be prevalent to visitors)
- Relevant sections of the NPPF are not outlined in the updated Heritage Assessment (Historic England/Place Services have reviewed the updated document and have confirmed no objections to the proposal)
- No reference to the conservation area appraisal in the updated Heritage Assessment (Historic England/Place Services have had due to respect to the impact of the proposal upon the conservation area setting and have no objections)
- Clear harm to the setting of the War Memorial/Listed Gardens (In this respect, the Gardens Trust and the War Memorial Trust maintain their objections. However, the additional information provided demonstrates that whilst the wheel will be apparent it will only be in the context of the pier itself. The form and design of the structure will complement the setting of the pier and its forecourt. The nature of the wheel will not affect the tranquillity of the War Memorial or the gardens. Historic England/Place Services concur with this view and the conclusions of the applicant's Heritage Statement)
- CGIs provided are not verified views and although the harm is 'less than substantial' in nature there is still insufficient information to clearly assess the impacts of the proposal upon heritage assets (The information provided has been thoroughly assessed by Historic England/Place Services and they have not raised any concerns with the level of information provided. They are both satisfied that the information provided is sufficient to make a robust assessment of the impact of the proposal upon nearby heritage assets. To this end they have no objections. Moreover, the level of harm identified by the Gardens Trust and the War Memorial Trust is less than substantial in nature and the overriding public benefits of supporting an additional tourism attraction within a key tourist resort in the District outweighs the harm identified).

## Conclusion and Planning Balance

The above objection letters and letters of support, including the views of statutory consultees, have all being taken into account. For the reasons given in this report it is considered that the observation wheel and associated ancillary development will not cause harm to the significance of the Clacton Seafront Conservation Area or to the significance of other nearby heritage assets. All other material planning considerations have been taken into account including the additional contribution of the development proposal to tourism, its 'pull' effect and the public benefits in the form of additional spend in the local economy that will stem from that, which weighs considerably in favour of the proposal. It is recommended that planning permission is granted subject to the following conditions

### **6. Recommendation**

Approval

### **7. Conditions**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

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

- Observation Wheel Base Plan (Scale 1:125)
- Demolition Block Plan (Scale 1:500)
- Structural Report (as prepared by Robert Leeds Structural Design - Second Revision 15/04/2021)
- Observation Wheel - Elevations as Proposed (Drawing no. 1600/11)
- Observation Wheel - Floor Plan as Proposed (Drawing no. 1600/10)
- Observation Wheel Details Plan (Scale 1:200)

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

- 3 The approved observation wheel shall only be operational between the hours of 9am-10pm. Outside of the operational hours all lighting and associated background music should be switched off.

Reason - In the interest of amenity and to ensure consistency with the opening hours of the Pier.

### **8. Informatives**

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

The Marine Management Organisation (MMO) is a non-departmental public body responsible for the management of England's marine area on behalf of the UK government. The MMO's delivery functions are; marine planning, marine licensing, wildlife licensing and enforcement, marine protected area management, marine emergencies, fisheries management and issuing European grants.

#### Marine Licensing

Works activities taking place below the mean high water mark may require a marine licence in accordance with the Marine and Coastal Access Act (MCAA) 2009.

Such activities include the construction, alteration or improvement of any works, dredging, or a deposit or removal of a substance or object below the mean high water springs mark or in any tidal river to the extent of the tidal influence.

Applicants should be directed to the MMO's online portal to register for an application for marine licence.

The applicants are reminded that the facilities will be required to comply with the Equality Act and other allied legislation.

<b>Are there any letters to be sent to applicant / agent with the decision? If so please specify:</b>	YES	<b>NO</b>
<b>Are there any third parties to be informed of the decision? If so, please specify:</b>	YES	<b>NO</b>