



Appeal Decisions

Inquiry held on 7,8,9 and 21 July 2026

Site visits held on 10 and 20 July 2026

by Paul Freer BA (Hons) LLM PhD MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 7 August 2026

Appeal A Ref: APP/J2373/X/26/3378127

South Pier, Promenade, Blackpool FY4 1BB

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Ms Fiona Blaylock of The Blackpool Pier Company against the decision of Blackpool Council.
 - The application Ref 25/0790, dated 4 November 2025, was refused by notice dated 17 December 2025.
 - The application was made under section 192(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is the siting of two rides, one on either side of South Pier headland area.
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Appeal B Ref: APP/J2373/W/26/3378234

South Pier, Promenade, Blackpool FY4 1BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant planning permission.
 - The appeal is made by Ms Fiona Blaylock of The Blackpool Pier Company against the decision of Blackpool Council.
 - The application Ref 25/0269, dated 9 April 2025, was refused by notice dated 8 September 2025.
 - The development for which planning permission is sought is the erection a star flyer on the south side of South Pier, and log flume on the north side of South Pier, to be in situ for a period between 1 April and 31 October each year.
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Summary Decisions

Appeal A is dismissed

Appeal B is dismissed

Procedural Matters

1. I carried out a total of four site visits in connection with these appeals. The first was an unaccompanied site visit on the afternoon of Monday 6 July 2026, the day before the Inquiry, purely to familiarise myself with the appeal site and surroundings. I then made a further unaccompanied site visit in the late evening of Wednesday 8 July 2026 (between the hours of approximately 21:00 and 23:00) with the purpose of viewing South Pier and the surroundings when illuminated. On that day, the rides on the pier itself ceased operating shortly

after 22:00 hours, when the illumination of those rides was switched off, but the pier itself remained illuminated throughout my site visit.

2. The main accompanied site visit was held on Friday 10 July 2026 and involved a walk along the Promenade from North Pier down to Burlington Road West tram stop, just to the south of South Pier, stopping at intervals to agree with Dr Brodie and Mr Rowan whether the proposed rides would be visible or not from various positions. I also went onto South Pier itself as part of that site visit. The intention had been to view the appeal site from the top of Blackpool Tower, and an attempt was made to do so, but a layer of sea mist/low cloud obscured the whole of Blackpool at the time. I therefore made a fourth site visit on Monday 20 July 2026 specifically to view the appeal site from Blackpool Tower. The visibility was good on that day, and that site visit was particularly helpful to me in understanding the spatial relationship of Blackpool's three piers and how they are linked by the Promenade.

Reasons

Appeal A

3. Section 192(2) of the Town and Country Planning Act 1990 (1990 Act) indicates that if, on an application under that section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case shall refuse the application. My decision is therefore based on the facts of the case and judicial authority. For the avoidance of doubt, this means that the planning merits of the proposed development are not relevant to this appeal and the main issue is whether the Council's decision to refuse to grant a Certificate of Lawful Use or Development (LDC) was well founded. In this respect, the burden of proof is on the appellant to show that, on the balance of probability, the development proposed would have been lawful on the date on which the application was made.
4. The background to the LDC application is that it was submitted at the suggestion of the Council's Built Heritage Manager/Head of Planning. As a result of that suggestion, as I understand it, the LDC as originally submitted was made under section 192(1)(a) of the 1990 Act in relation to any proposed use of buildings or other land. However, by the time of the Inquiry, the appellant accepted that the rides are probably best categorised as operational development. In closing submissions, it was made clear that the appellant does not invite a strained application of the judicial authorities on operational development. The appellant's position at the close of the Inquiry was therefore that if I conclude the structures amount to operational development, then the LDC appeal should be dismissed.
5. I interpret the above as a tacit acceptance that the LDC application ought to have been submitted under section 192(1)(b) of the 1990 Act for operations proposed to be carried out in, on, over or under land, and the appeal determined on that basis. That also appears to me to be the correct approach given the facts and circumstances of this case. I will therefore determine this appeal as if it had been submitted under section 192(1)(b) of the 1990 Act. Having regard to the above, I am satisfied that no injustice would be caused by doing so.

6. It was held in *Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd* [1949] 1QB 385, endorsed by Court of Appeal in *Skerritts of Nottingham Ltd v SSETR (No.2)* [2000] 2 PLR 102, that regard should be had to three primary factors when considering whether a structure is a building:

- (a) Size
- (b) Permanence, and
- (c) Physical attachment

The Court of Appeal held that none of these three factors is necessarily decisive. It is convenient to consider each of the two rides that are proposed against these factors.

The Starflyer

7. At a height of approximately 77 metres and covering a maximum area of approximately 400m², the Starflyer would be of a considerable size. Although the ride would only be in place between April and October each year, it was held in *Skerritts* that 'permanence' does not necessarily connote forever or indefinitely. In this context, where the Starflyer ride would be in place for some seven months each year, I consider that the ride must be considered as having a degree of permanence. The Starflyer ride would not be affixed to the ground or braced by rigging but would rely on its own weight/ballast to remain in place. Nevertheless, given the Health & Safety implications if the ride was not held securely in place, I consider that the Starflyer ride must be considered as having a degree of physical attachment to the ground by reason of its weight.

The log flume

8. The log flume would cover an area of approximately 600m² and would have a height of 11.75m. The log flume ride would therefore also be of considerable size. The same considerations in terms of permanence and physical attachment that apply to the Starflyer ride equally apply to the log flume ride.

Conclusion on Appeal A

9. The term 'building operations' is defined for the purposes of the 1990 Act in section 55(1A) as including (a) demolition, (b) rebuilding, (c) structural alterations of or additions to buildings, and (d) other operations normally carried on by a person in business as a builder. The approach of the courts in construing these definitions has been to ask first whether what has been done has resulted in the erection of a 'building': if so, the courts should want a great deal of persuading that the erection of it had not amounted to a building or other operation.
10. By reason of their size, together with their degree of permanence and physical attachment, I conclude that as a matter of fact and degree both the Starflyer and the log flume rides constitute buildings in the terms of *Cardiff Rating* and *Skerritts*. I therefore conclude that the erection/installation of both the Starflyer and the log flume rides would amount to a building operation and therefore constitute development for the purposes of section 55(1) of the 1990 Act.

11. Section 57 of the 1990 Act states that planning permission is required for the carrying out of any development of land. There is no planning permission in place, deemed or otherwise, for either the Starflyer or the log flume rides. I therefore conclude that, on the balance of probability, the development(s) proposed in the LDC application would not have been lawful on the date that the application was made.
12. I further conclude that the decision of the Council not to issue a Certificate of Lawful Use or Development was well-founded and that the appeal should be dismissed.

Appeal B

13. The reasons for the refusal of planning permission, as expanded upon by evidence given at the Inquiry, raise four main issues:
 - the principle of the development, including whether the proposed development constitutes piecemeal development on the Promenade
 - whether the proposed development would harm the character and appearance of the area
 - whether the proposed development would harm the setting of designated and non-designated heritage assets, specifically Blackpool Tower and South Pier respectively
 - whether the proposed development would, and should, secure any requirements for tree planting, landscaping and Biodiversity Net gain

The principle of the development

14. The appeal site lies within the Resort Core and forms part of the defined Promenade and Seafront under the Policies Map. The Council explains that the Promenade is intended to be the "shop window" of Blackpool. The Council's strategy is to use development to complement the substantial investment in the Promenade, reinforce the quality of the public realm and contribute positively to the townscape. That strategy is reflected in policies within the development plan.
15. Policy CS21 of the Blackpool Local Plan Part 1: Core Strategy (Local Plan Part 1) states, amongst other things, that in order to physically and economically regenerate Blackpool's Resort Core, the focus will be on strengthening the resort's appeal to attract audiences year round.
16. Policy DM10 of the Blackpool Local Plan Part 2: Site Allocations and Development Management Policies (Local Plan Part 2) states, amongst other things, that:
 2. Piecemeal development on the forecourts of commercial buildings on the Promenade between the Pleasure Beach and North Pier will not be permitted, and
 3. Excluding the pier heads, pier decks and platforms, new development on land to the west of tram track will not be permitted, other than green infrastructure; essential infrastructure, ancillary shelters, seating, public art and public realm improvements.

17. As the Council explains, Policy DM10 is deliberate and restrictive. It responds to the history of piecemeal development around the pier headlands, which has created clutter and detracted from the town's principal assets. It therefore resists further piecemeal development west of the tram tracks except for the limited categories expressly identified in the policy itself. The Council explains that the policy is not merely about detailed design: it protects the strategic openness of the seafront against incremental erosion.
18. The appellant raises an interesting point in relation to Policy DM10. The appellant suggests that the Council, through Policy DM10, reads the Promenade as comprising every parcel of land west of the tram tracks. In the appellant's view, the better reading is that the Promenade is the walked public space that Policy DM10 protects.
19. As the appellant points out, the made-up flanking parcels incorporated into this appeal and on which the two proposed rides would be located are different. The appeal sites are made hardstanding, formed over the beach in the sea defence works. It is therefore the appellant's view that the conflict with the wording of Policy DM10 is materially tempered by the particular facts of this site.
20. It was pointed out to me at the site visit on 10 July 2026 that these flanking parcels are delineated on the ground by a painted white line and concrete blocks. They are not open to the public albeit, in practice, I observed during my site visits that members of the public were walking through these spaces unchallenged and apparently tolerated. They are in use for purposes ancillary to the piers, including a bar, a car park and bouncy castles.
21. Policy DM10 states in terms that, with certain exceptions stated within the policy itself (which do not apply to the appeal proposal), new development on land to the west of tram track will not be permitted. The policy is not qualified in terms of land ownership, whether the land forms part of the Promenade or whether the land is accessible to the public. It simply states new development on land to the west of tram track will not be permitted. On my reading of Policy DM10, it applies to all development to the west of the tram track. It follows that the wording of Policy DM10 is not materially tempered by the particular facts of this site, such that the policy applies with full force.
22. Policy DM10 was adopted specifically to prevent further piecemeal development. The Council maintain that the proposal is not supported by a masterplan, a public-realm or design strategy, an assessment of alternative locations or layouts, or a coherent vision for the Promenade. The Council contends that the locations appear to have been selected for operational convenience. For that reason, the Council maintains that the proposal is the very type of isolated commercial development that Policy DM10 seeks to resist.
23. But that misses the point. The proposed development constitutes a coherent proposal for two rides operated across a defined season, tied to the business that runs South Pier and to the maintenance need of that pier. It is not piecemeal just because it stands outside a wider masterplan. The rides would be inextricably linked to South Pier, one of the three piers that are unique to Blackpool. As such, the proposed development is a targeted response to the maintenance needs of South Pier (and Central Pier) rather than being the type of piecemeal development envisaged by Policy DM10, with no association to the

Promenade or existing tourist attractions. I therefore find no conflict with Policy DM10 in that respect.

24. The development plan must be read as a whole. Here is a situation where policies in the development plan pull in opposite directions. Setting aside for now the question of whether the proposals qualify as high quality tourism attractions, to which I return below, the proposed development would contribute towards physically and economically regenerating Blackpool's Resort Core. The proposed development therefore benefits from the support provided by Policy CS21 of the Local Plan Part 1 in that respect.
25. However, the proposed development would be located to the west of the tram track. As such, it would be contrary to Policy DM10 of the Local Plan Part 2. Because the latter is a detailed policy relating to the control of specific developments in particular locations, as opposed to a strategic policy relating to all developments in Blackpool, I attach greater weight to Policy DM10 in the specific circumstances of this case. Accordingly, I find that in terms of the principle of development, the proposals are not in accordance with the development plan when read as a whole.

Character and appearance

26. The appeal site is within the active, resort-led entertainment quarter at the southern end of the seafront. It is a busy, bustling, noisy and vibrant place, both by day and by night. The tramway runs through the area and the movement of the trams, as well as the associated noise of the trams, is a distinctive part of the character. The pier itself and the rides on it are illuminated as is much of the surrounding development, including the Sandcastle and the Pleasure Beach. In summary, this is very much a working resort frontage.
27. In the context of this working resort frontage, the Starflyer and the Log Flume rides would both be entirely in keeping with that character. This would apply not only to the buildings themselves, including in the case of the Starflyer ride the vertically moving component(s), but also to the noise, activity and illumination associated with the two rides.
28. But that is not whole picture. The land west of the tram tracks has an open and spacious feel. The Local Plan advises of the need to maintain the open character of the Promenade between the Pleasure Beach and North Pier and to maintain strategic views of the sea, coast and foreshore.
29. By reason of their design, height, mass and scale the two rides would be unduly visually intrusive and would dominate the surrounding area. I make that assessment having full regard to the surrounding development, including the openness of the Promenade and the pier head, which the two rides would significantly erode.
30. With a height of 77m, the Starflyer would be considerably higher than the surrounding development. I recognise that the majority of the structure would comprise a narrow lattice-like structure but, at certain times, the seating element of the ride would be at its highest level, at which height it would be prominent and visually intrusive. The seating element of the ride would also be in motion for the some of the time, which would be visually distracting and would attract attention the ride.

31. The combination of these factors would result in the ride being visually intrusive and dominant, and not just in the immediate vicinity. By reason of its height, the Starflyer ride would be visible from a considerable direction in all directions, well beyond the land to the west of the tram tracks. The Starflyer ride would also be 12m taller than the Big One rollercoaster in the Pleasure Beach, which the Council regards as the 'bookend' at the south end of Blackpool. As such, the Starflyer ride would alter, blur and disrupt that definition of the resort boundary.
32. In terms of design quality, the Council's design objection under CS21 is misconceived. As the appellant points out, the Council judges a fairground ride as though it were a permanent building. In the Resort Core, beside a working amusement pier, a high-quality tourism attraction can be a well-engineered and legible fairground ride. Its quality lies in whether it does its job well, in the place where that job is done, not in permanence or architectural composition. In that respect, I draw a parallel with the rides on The Pleasure Beach. Those rides are clearly functional pieces of engineering, designed with a specific purpose in mind. There is nothing, in my view, to suggest that they are not examples of high-quality design in that particular context.
33. The same applies to the proposed Starflyer ride. When viewed purely as a piece of design, it is of a high quality for its intended purpose: it is unashamedly a fairground ride and, in my view, ought to be judged as such. That said, for the reasons set out above, I conclude that is not appropriate in the proposed location.
34. The Log Flume ride would not be widely visible from positions to the south of South Pier, being largely obscured by the pier itself. From the north of South Pier, and particularly in views from the Promenade, the Log Flume would appear as visually intrusive against the background of South Pier. Whilst the prominence of the Log Flume ride would reduce with distance from the pier, at closer ranges by reason of its height and mass it would dominate views of the north elevation of South Pier. It would harm the appearance of the area in these views.
35. The Log Flume ride would also be seen in conjunction with the Upside Down House in these views which, by reason of the visual clutter created, would exacerbate the harm. However, I understand that the Upside Down House is the subject of a temporary permission, such that this might not be a permanent harm. Nevertheless, even without the presence of the Upside Down House, I still assess the visual harm to be unacceptable.
36. Finally in this context, the Log Flume ride would be prominent in views from the East, again well beyond the land to the west of the tram tracks. In these views, the Log Flume ride would not appear as part of South Pier due to the visual separation. This would be exacerbated by the height, mass and scale of the Log Flume ride, which would visually compete with and detract from the appearance of the pier.
37. My conclusions in this respect are reinforced by the findings of the Inspector for the previous appeal for a log flume ride in this location (APP/J2373/W/19/3224973). In dismissing that appeal, the Inspector concluded that the scale, massing, height and functional design of the ride do not fit well with the quality of the upgraded promenade that presents an attractive public area along the seafront.

38. I recognise of course that the circumstances surrounding the appeal site have changed somewhat since that appeal decision, dated 19 November 2019. The go-kart track that stood on the land at that time has subsequently been removed and The Upside Down House has since come on the land to the north. Two further rides have been added to the pier itself and the presentation of the attractions on the pier itself have improved. The appeal decision can be distinguished in those respects. Nevertheless, the fundamental spatial relationship between the proposed log flume ride, South Pier and the Promenade remains exactly as it was at the time of Inspector's decision. Accordingly, that appeal decision is a material consideration to which I attach significant weight.
39. I conclude that the proposed development would unacceptably harm the character and appearance of the area. I therefore conclude that proposed development is contrary to Policies CS7, SS8 and CS21 of the Local Plan Part 1 and Policies DM10, DM17 and DM28 of the Local Plan Part 2 which, amongst other things, collectively seek to ensure well-designed development that conserves or enhances the character and appearance of the area.

The setting of designated and non-designated heritage assets

40. Section 66(1) 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 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 (emphasis added).
41. In the reasons for refusing planning permission, the Council refers to "harm to strategic views of and along the seafront and strategic views of Blackpool Tower, competing for prominence with it". On my reading, that amounts to the same thing as setting and triggers the duty placed by Section 66(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990.
42. The setting of a heritage asset is defined in Annex 2: Glossary to the National Planning Policy Framework (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, may affect the ability to appreciate that significance or may be neutral.*
43. Historic England has produced an advice note concerning the setting of Heritage Assets, titled 'The Setting of Heritage Assets Historic Environment Good Practice Advice in Planning Note 3' (Second Edition). I have employed the definition in the Framework and Historic England's guidance in my consideration of the setting of the most relevant heritage assets in this case: namely, Blackpool Tower (Grade I Listed Building and therefore a designated heritage asset) and South Pier (a locally listed building and therefore a non-designated heritage asset). It is convenient to consider the latter in the first instance.

The setting of South Pier

44. South Pier was built in 1892-3. The Historic Asset Record (HAR) includes the following Summary of Importance:

The third of Blackpool's historic piers, built using jetted piles. A prominent and important element of the town's entertainment complexes, the pier retains the principal elements of the C19 structure, and is of structural and historic interest.

45. The HAR goes on to explain that South Pier was one of only two piers in England to be constructed using jetted piles, whereby a pile was driven into the seabed by the action of water passed down its centre until reached the required depth, when natural contraction of the disturbed sands held it in place. The piles support vertical cast iron columns in double rows of six.

46. Annex 2: Glossary of the Framework defines 'significance' as:

The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic.

47. The stalls, attractions and rides on the timber deck of the pier have evolved over the years but the historic structure of South Pier has been an omnipresent feature. I consider that the rarity of the construction technique used at South Pier makes an important contribution to the historic interest that derives from the heritage asset. There was no dispute between the parties on this point.

48. In terms of its historical value, South Pier is a survivor, over half of the country's seaside piers having disappeared. It is one of the unique trio of Victorian seaside piers that Blackpool still boasts and was a key element in the development of South Shore, now forming part of the south end of Blackpool. In addition, together with North Pier and Central Pier, South Pier forms part of Blackpool's recognised seafront identity and one of the country's most recognisable coastal skylines.

49. The significance of South Pier as a non-designated heritage asset therefore derives in part from its historical interest and in part from its continuing contribution as a working amusement pier to the wider character of the seafront.

50. As Dr Brodie explained in evidence, the open frontage with clear flanks allows an appreciation of the engineering structure of the pier behind. That statement, whilst true, must be approached with an element of caution: it is possible to get unrestricted views of the engineering structure of the pier from positions close to it that would not be impacted by either of the two rides, including from on the beach itself at low tides. The proposed rides would therefore not impinge on those views and would not affect the setting of the heritage asset.

51. The two rides would, however, prevent an appreciation of the engineering structure of the pier when viewed from the east. For the log flume ride, this would be as a result of its height, bulk and mass, as a consequence of which views of the engineering structure of the pier would be largely obscured. For Starflyer ride, this would primarily be from the screen that would surround the base of the ride, for the same reason.

52. The Starflyer ride would also have another effect on the setting of South Pier, this by reason of its height. This would visually dominate South Pier and would change how South Pier is perceived in terms of Blackpool's recognised seafront identity and one of the country's most recognisable coastal skylines. Moreover, I noted on my site visit that the Starflyer ride would be viewed in conjunction with South Pier from numerous places along the Promenade, and from a considerable distance both to the north and south of South Pier. The presence of the Starflyer ride would therefore fundamentally alter the surroundings in which the heritage asset is experienced from across a large section of the Promenade.
53. Dr Brodie makes the point that the presence of the Starflyer ride would single out South Pier from the other two piers, which currently provide a regular rhythm along the seafront in harmony with the headlands created as part of the new sea defences. Having viewed Blackpool from the observation deck at Blackpool Tower, from which the spatial relationship of Blackpool's three piers is apparent, I very much take that point. Although this is not a relationship that is readily apparent from ground level, viewing the resort from the upper levels of Blackpool Tower is popular with tourists/holidaymakers. It is therefore another location from which the setting of the heritage asset is frequently experienced.
54. Paragraph 216 of the Framework confirms that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. It goes on to advise that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
55. In view of the importance of the construction technique used at South Pier to the historic interest of the heritage asset, and to the contribution made by South Pier to Blackpool's recognised seafront identity, I conclude that the setting of South Pier would be harmed. In weighing the balance required by Paragraph 216 of the Framework, by obstructing views of that historic structure and to that extent reducing the contribution that South Pier makes to Blackpool's recognised seafront identity, the scale of the harm to the significance of the heritage asset would be considerable.
56. My conclusions in this respect are again reinforced by the findings of the Inspector for the previous appeal for a log flume ride in this location (APP/J2373/W/19/3224973). The Inspector considered that the log flume ride would harm the setting of the pier, appearing as free-standing structure of poor design with no clear link to the pier. The Inspector went to find that the log flume ride was of a functional design that relates poorly to the character and form of the nearby pier and wider promenade area, which he found to have a negative impact. I concur with the Inspector's findings in these respects, which add to my own conclusions set out above.

Blackpool Tower

57. Blackpool Tower is a Grade 1 Listed Building and an iconic landmark that is central to the very identity of Blackpool. The Local Plan Part 2 explains that views of Blackpool Tower and the seafront and coastline are particularly sensitive to changes in their setting given that the Tower is the focal point of

the Promenade and the seafront and coastline serves as the shop window to the resort.

58. The log flume would have no impact upon the setting of Blackpool Tower. The Starflyer ride would only affect the setting of Blackpool Tower in views from the south of South Pier. Nevertheless, in those views, the Starflyer would greatly affect the setting of Blackpool Tower.
59. When moving northwards along the Promenade from the vicinity of Burlington Road West tram stop, Blackpool Tower would be visible in conjunction with the Starflyer ride from numerous locations. These locations were agreed with Dr Brodie and Mr Rowan at the site visit on 10 July 2026. The visual relationship would change between various locations, in some places appearing to the left of Blackpool Tower and to the right it from others. Moreover, as the perspective changes, The Starflyer ride and Blackpool Tower would be viewed from some positions as being in close proximity, in others as being further apart.
60. The common denominator in all views where the two would be viewed in conjunction is that the Starflyer ride would in the foreground with Blackpool Tower in the background. The Starflyer ride would appear the more prominent in those views, with Blackpool Tower being subsumed into the background. This would harm strategic views of and along the seafront and strategic views of Blackpool Tower, competing for prominence with it. This would be even more pronounced during the hours of darkness, when by reason of its height Blackpool Tower is currently viewed as effectively an isolated landmark in the darkness.
61. The presence of the Starflyer ride would therefore fundamentally alter the surroundings in which the heritage asset would be experienced from across a large section of the Promenade to the south of South Pier. This would harm the setting of Blackpool Tower when viewed from those locations. This in turn would harm the significance of Blackpool Tower as a designated heritage asset given that, in part, its significance derives from its role as an iconic landmark central to the identity of Blackpool itself. There is no clear and convincing justification for that harm.
62. In reaching that conclusion, I am mindful that in cross-examination Dr Brodie alleged no harm to the significance of Blackpool Tower. However, I reach that conclusion in fulfilling the duty imposed upon me by Section 66(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990, having agreed with Dr Brodie and Mr Rowan at the site visit those positions from which the proposed Starflyer ride would be visible in conjunction with Blackpool Tower.
63. Given that the Starflyer ride only affects the setting of Blackpool Tower from part of the Promenade and that views from all other places are unaffected, including from the majority of the Promenade, I find that the harm caused is less than substantial, albeit towards the upper end of the scale of less than substantial harm. Nevertheless, Paragraph 212 of the Framework indicates that great weight should be given to the asset's conservation.
64. Paragraph 215 of the Framework indicates that 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 including, where appropriate, securing its optimum viable use. In my view, there are two public benefits that would arise from the Starflyer ride.

65. The first public benefit would be increasing the entertainment offer at the resort as whole, a popular destination for tourists and holidaymakers. The second public benefit would be the use of funds secured from the Starflyer ride towards the upkeep and maintenance of South Pier. I set out my findings on that consideration in detail below but for present purposes it is sufficient to record that the public benefits, taken either individually or cumulatively, would not outweigh the harm that would be caused by the Starflyer ride to the setting of Blackpool tower.

Conclusion on the setting of designated and non-designated heritage assets

66. I conclude that the proposed development would unacceptably harm the setting of designated and non-designated heritage assets, specifically Blackpool Tower and South Pier respectively. I therefore conclude that proposed development is contrary to policies CS7, CS8 and CS21 of the Local Plan Part 1, or with policies DM10, DM17, DM19 and DM28 of the Local Plan Part 2 which collectively, and amongst other things, seek to ensure well designed development that conserves or enhances the character and appearance of the area, including the significance of heritage assets.
67. For the same reasons, the proposed development would fail to accord with the Framework, specifically paragraphs 215 and 216.

Tree planting, landscaping and Biodiversity Net gain

68. Policy CS6 of the Local Plan Part 1 sets the scene in relation to green infrastructure and requires, amongst other things, that all development should incorporate new infrastructure of an appropriate size, type and standard. The policy goes on to state that where on-site provision is not possible, financial contributions will be sought to make appropriate provision for green infrastructure.
69. Policy DM21 of the Local Plan Part 2 states that development proposals are expected to contribute towards green and blue infrastructure and *where appropriate*, planning applications should include details of hard and soft landscaping (emphasis added). The words 'where appropriate' are key. On my reading of this policy, these words are an explicit acknowledgement that the policy needs to be applied with pragmatism, having regard to the circumstances of the particular site in question. It is also an explicit acknowledgement that there might some situations where the provisions of hard and/or soft landscaping would not be appropriate.
70. This is one of those situations. The appeal site is an area of hard surface. There is no soft ground in which plants could grow. It is an exposed location, being vulnerable to salt spray and strong winds. It is therefore an inhospitable environment for plants to thrive and even take hold. This is demonstrated by the areas of grass planting elsewhere on the Promenade which exhibit signs of not thriving in this environment and barely survive. Whilst that may be a consequence of the warm weather at the time of and leading up to my site visit, any planting at the appeal site would have to survive and thrive in the same temperatures/climate. Where planting/landscaping has been successful,

such as adjacent to The Sandcastle building, it has been in more sheltered locations out of the worst of the elements.

71. The only realistic opportunity to provide landscaping would be in the form of plant boxes/planters. Two points arise. Firstly, the proposed rides would only be in situ between April and October, after which the site would be restored to its previous condition. The corollary is the plant boxes/planters would need to be removed and replaced at the start of the next season, which seems to me to be not practical and unduly onerous on the appellant¹.
72. Secondly, the proposed development is for two rides, one to each side of South Pier. Both would be in operation at the same time. It follows that the area in which the which plant boxes/planters would be sited would be constrained by the rides themselves. The residual area would also be crowded with people milling about before and after going on the rides, and with people merely spectating. The plant boxes/planters would therefore be a hindrance to primary purpose of the rides, and potentially also a risk to Health & Safety. Moreover, it is likely that the plant boxes/planters would merely become receptacles for rubbish and litter.
73. For all these reasons, I consider that the provision of landscaping of any description as part of the proposed development would not be a practical proposition. I therefore find no conflict with Policy DM21 of the Blackpool Local Plan Part 2 or with the overarching Policy CS6 of the Local Plan Part 1.
74. Policy DM35 of the Local Plan Part 2 states that development proposals will be required to result in no loss or harm to biodiversity through avoidance, mitigation or, as a last resort, compensation measures secured through the establishment of a legally binding agreement. The second half of the policy is predicated on there being harm to biodiversity that requires mitigation or compensation.
75. That is not the case here. As indicated above, the appeal site is an area of hard surface. Nothing grows there. Nothing lives there. Neither does the land provide habitat for foraging or commuting. Accordingly, no biodiversity would be lost or harmed as a result of the appeal proposals. It follows that there is nothing to mitigate for or compensate for. In these circumstances, it would not be reasonable to require the provision of off-site green infrastructure.
76. For these reasons, notwithstanding that the appeal site lies within an area designated for Green Infrastructure, on the particular facts of this case I find no conflict with Policy DM35 of the Local Plan Part 2 or with the overarching Policy CS6 of the Local Plan Part 1.
77. I am mindful of the protection to habitats and biodiversity set out in the Framework, and that is a material consideration that I have taken into account. However, that does not alter my conclusions on this main issue.

Other considerations

78. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that if regard is to be had to the development plan for the purpose of any

¹ There is a tangential point here in that there is a possibility that subject to size, degree of permanence and physical attachment, these plant boxes/planters may themselves constitute development requiring planning permission. In the absence of any details, I express no opinion on that point.

determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. I have found that the proposed development fails to accord with the development plan. It is therefore necessary for me to consider whether there are any material considerations of sufficient weight to indicate that determination should be made otherwise than in accordance with the development plan.

Whether income generated by the proposed rides is necessary to fund the maintenance and repair of Blackpool's piers

79. The appellant owns two piers in Blackpool, namely Central Pier and South Pier. At the time the application was made, the appellant also owned North Pier, but Ms Blaylock confirmed in her evidence that this was sold on 19 June 2026, shortly before the Inquiry opened. The evidence presented to Inquiry was adjusted accordingly.
80. In his evidence, Mr Pratt set out the structural position. In the interests of brevity, I do not rehearse that evidence in detail here but, in summary, it indicated that South Pier and Central Pier both require substantial and continuing structural maintenance. That evidence was not contested and I found it compelling. Indeed, viewing the structure of South Pier from beach level, which I had the opportunity to do on one of my unaccompanied site visits, the nature and extent of the problem is readily apparent.
81. The scale of the need for maintenance of the piers is set out by Mr Pratt in his evidence. He identifies three levels of intervention for South Pier and Central Pier: a minimum, a baseline and an enhanced programme. On the minimum programme, the work needed comes to approximately £532,000 a year. The appellant currently spends approximately £170,000 a year on steel and timber repairs. The two rides are forecast to produce in income of some £230,000 a year. That would take the Appellant from about £170,000 towards about £400,000 against a minimum need of about £532,000. The income the proposed rides would therefore not close the gap completely but would carry the appellant a long way towards the minimum level of intervention. That would be sufficient to arrest the decline in the condition of the piers that would otherwise continue without it.
82. Mr Pratt explains that deferral makes the problem worse. The evidence of Mr Pratt, and of Mr Marshall, is that a marine structure of this age deteriorates if work is deferred, and that deferred work costs more when it is eventually done. It is explained that the figures are not a fixed ceiling and that costs would rise if the work is not funded at this time.
83. Mr Marshall then gives the operational picture. He explains that the difficulty is not only the cost of steelwork. He explains that access to the substructure of the pier is dictated by the tides and by the weather: specialist marine contractors are in short supply, and the sand levels at the pier add a further and recurring cost. As a consequence, Mr Marshall explains, the maintenance of the pier cannot be delivered at will, and deferral has consequences.
84. The appellant makes it clear that the appeal proposal exists entirely to fund the upkeep of the piers. The appellant is at pains to point out that this is not a Historic England GPA 4 enabling case insofar as the appellant does not seek to argue that development that would otherwise be unacceptable must be

permitted to rescue a heritage asset. Rather, it is described as a cross-funding case. I have reservations as to whether that is the true position here, especially in view of my finding that the proposed development does not accord with the development plan. Nevertheless, the Council ultimately accepted that this is a cross-funding case and prepared its response on that basis. I will therefore treat it as such.

85. There is no dispute that the condition of the piers would continue to deteriorate without the funding from the proposed rides. The revenue provided by the proposed rides would not be sufficient to secure even the minimum level of intervention identified by Mr Pratt. It would be sufficient to arrest the decline in the condition of the piers but would not securely provide for the future of the heritage assets. Accordingly, on a purely monetary basis, it would not be the whole solution to the problem identified by Mr Pratt.
86. Moreover, the proposed development is not presented as being just one element of a defined and comprehensive scheme for their repair and maintenance of the piers. There is no prioritised schedule, specification or timetable for the repairs/maintenance beyond that it would be ongoing year on year. No measurable conservation outcome arising from the appeal proposal has been identified. I fully recognise that there is a dynamic component to the repair and maintenance of the piers as a result of the weather and marine environment. Nevertheless, the absence of a defined and comprehensive scheme for their repair and maintenance of the piers reduces the weight that I can give to this as a material consideration.
87. The appellant's evidence does not establish that the proposed contribution is the only reasonably available source of funding. For example, the appellant advises that the log flume is an asset of the business capable of generating revenue, yet it has been placed in storage with apparently no thought given to leasing it or selling it. Following the sale of North Pier, the annual turnover of the Blackpool Pier Company is said to be in the region of £12 million. Across a business with a £12 million turnover, the appellant has presented no convincing evidence to show that there is no cost saving measure or profit-making opportunity which could close the gap to the minimum level of intervention.
88. The appellant says that the sale of North Pier still leaves the Blackpool Pier Company with a cash-shortfall problem. For confidential commercial reasons, Blackpool Pier Company understandably elected not to provide further details to the Inquiry about the sale of North Pier. However, in the absence of that information, I cannot discount the possibility that revenue secured from the sale of North Pier could be used to secure at least the minimum level of intervention identified, such that the revenue from the proposed rides would not be necessary to achieve that objective.
89. Finally in this context, there is the mechanism through which the revenue generated from the proposed rides would be directed to the repair and maintenance of the piers. The appellant's primary case is that the development is acceptable in planning principle on its own merits, and that permission should be granted on that basis. Nevertheless, the appellant considers that if controls are considered appropriate, then this can be achieved through the imposition of a condition rather than through a section 106 obligation/agreement.

90. The appellant points out that the Planning Practice Guidance (PPG) provides that no payment of money or other consideration may be positively required by condition, but that a negatively worded condition may be used to prohibit development until a specified action has been taken. The appellant therefore proposes conditions in that permitted negative form, such that the operation is prohibited unless the specified maintenance works have been carried out and the statement submitted (the Grampian principle). The appellant's proposed condition(s) impose no positive obligation to pay money. Instead, they regulate the operation of the permitted development, which the appellant contends is a proper subject for a condition.
91. The PPG is explicit that where the same objective can be achieved by either a condition or a planning obligation, a condition should be used. Because it runs with the land and binds successors, the appellant's proposed condition(s) provides equivalent security to a section 106 obligation. The condition(s) are framed by reference to the "Operator", meaning any person or entity that operates the development or receives income from it, and not by reference to the appellant or to "a company controlled by the Appellant." A future owner or operator is therefore bound. This avoids the difficulty, identified in the PPG, of tying a permission to a particular company, whose shares may be transferred.
92. I am satisfied that the condition(s) proposed by the appellant would meet the six tests set out the PPG. I am therefore satisfied that it would be open to me to impose such conditions in the event that I am minded to grant planning permission.
93. The harm done by the proposed rides would be contrary to policies in the development plan and is likely to be permanent². Although it falls short of constituting a whole solution to the problem that has been identified, and that other potential solutions to that problem may be available to the appellant, the arrest in the decline in the condition of the piers that would be secured from the revenue generated by the proposed rides is nevertheless a benefit arising from the proposed development. That benefit could be secured through the imposition of negatively worded conditions. Accordingly, that is a benefit to which I attach significant weight in the overall planning balance.

Consistency of decision making

94. The Council has on more than one occasion granted planning permission for seasonal rides and attractions on the Tower Festival Headland. This is known as 'Christmas by the Sea'. The planning permission granted in 2024 (Council Ref: 24/0535, dated 11 November 2024) was for a use of land as a Christmas market comprising stalls, rides and associated attractions for no more than 70 days between November and January inclusive on an annual basis for a period of 5 years. The 2024 planning permission ran for up to 70 days a year over five years, with set-up and dismantling controlled within that period, and with control over height and layout. In both cases that was secured through the imposition of a condition(s). The rides approved as part of that planning permission included a Starflyer ride having a height of some 60m.
95. The appellant maintains that the planning ingredients of that planning permission are close to those in this case. The headland is made land directly in front of the Grade I listed Blackpool Tower. It lies within the setting of the

² In the context of the planning permission that is sought.

Town Centre Conservation Area and the Grade II listed North Pier. The Delegated Report explicitly acknowledged that Policy DM10 does not support non-essential development west of the tram tracks, in part justifying the proposal on the basis that it would be temporary event on a purpose-built event space. The Delegated Report noted and that the land would be restored to its former condition in January after each event. The Delegated Report found that Policy CS21 is fully supportive of the proposal.

96. On any plain assessment, there are some striking similarities between Christmas by the Sea and the appeal proposals. Not the least of these is that the site is located to the west of the tram tracks and that the proposals affect the setting of heritage assets. I fully recognise that the overall planning balance is very different. In particular, Christmas by the Sea addresses a seasonal imbalance in Blackpool's economy and has generated millions of pounds for Blackpool's economy.
97. The Christmas by the Sea proposal is not before me and, for the avoidance of any doubt, I express no opinion as to the merits of that development. In any event, the Council was perfectly entitled to make the decision it did having regard to the development plan and the overall planning balance. This includes the Council's conclusion that the benefits of the proposal outweighed any conflict with Policy DM10 of the Local Plan Part 2.
98. Nevertheless, there is one major inconsistency within the Council's approach that cannot be easily explained: the effect of the Starflyer ride on the setting of heritage assets. In that context, the Delegated Report says:
99. That conclusion is reached in the context of Blackpool Tower being a Grade 1 listed building, North Pier being a Grade II listed building and the site being within the setting of the Town Centre Conservation Area. All of these are designated heritage assets. On any assessment, as Dr Brodie accepted in cross-examination, this is a more sensitive location than South Pier.
100. In refusing planning permission for the proposals at South Pier, Reason 3 stated:

With regard to the proposed starflyer ride, due to the form of development proposed, including its functional appearance and its significant height, the proposal would not fit well in the setting of South Pier, or with the quality of the upgraded Promenade that presents an attractive public area along the seafront. It would harm strategic views of and along the seafront and strategic views of Blackpool Tower, competing for prominence with it. (emphasis added)

101. The Delegated Report for that application says:

In considering the impact on views of Blackpool Tower, it is noted that in various views of the Tower, the starflyer ride would be visible and its height at almost half the height of the Tower would draw the eye to some degree and consequently the development would fail to protect and enhance those views of strategic importance.

102. Given the reasoning set out in these two Delegated Reports, I have great difficulty in reconciling the Council's approach to the effect on the Starflyer ride on the setting of the various heritage assets at Christmas by the Sea with the approach taken to the appeal proposals. In particular, I fail to understand how the Council can maintain an objection/reason for refusal on the effect of the proposed Starflyer ride at South Pier on the setting of Blackpool Tower at a distance of some 1.3 kilometres but found no harm with a Starflyer ride practically next to it. No convincing explanation has been provided for that discrepancy in approach. On the information available to me, that is the very epitome of inconsistency in decision making.
103. The appellant considers that the Council's decision to grant a temporary planning permission for the 'Upside Down House' also reveals a similar inconsistency in the Council's approach to decision making. The Council granted a temporary permission for an attraction on its own land to the north of South Pier, west of the tram tracks, within the immediate setting of South Pier. As the appellant points out, the Council accepted conflict with several development plan policies; it accepted some harm to the setting of South Pier; and yet it granted a temporary permission because the harm was limited. That is the same judgement the appellant invites in this case.
104. I take the appellant's point insofar as there does also appear to be an element of inconsistency of approach here in terms of individual factors. However, there is consistency in terms of the broad approach to the overall balance.
105. Consistency in decision making is essential to maintain public confidence in the planning system. The courts have established that like cases should be decided in a like manner, albeit that does not necessarily mean that like cases must be decided alike. It is also a truism that each case must be treated on its own merits. Furthermore, applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
106. Against that background, I cannot avoid the inescapable conclusion that the Council has acted inconsistently in terms of its approach to the effect on the Starflyer ride on the setting of the various designated heritage assets. Nevertheless, whilst a material consideration, that does not alter my overall conclusions on the harm caused by the Starflyer ride proposed at South Pier to the setting of Blackpool Tower as a designated heritage asset.

Conditions

107. A list of conditions has been provided. These were discussed at the Inquiry.
108. Given the nature of the development that is proposed, conditions relating to the seasonal siting and annual removal of the two rides would be necessary, as would be a condition requiring the submission and approval of a Construction Management Plan. In the interests of safeguarding the amenities of nearby occupiers, a condition restricting the operating hours of the rides would also be necessary. Pre-commencement conditions relating to sustainable drainage, flood risk and aviation safeguarding (in connection with the Starflyer ride) would be necessary.
109. For the reasons set out above, conditions requiring the submission and implementation of a Pier Maintenance Scheme and submission of an Annual

Pier Maintenance Statement would be necessary. A condition requiring that no bouncy castle rides shall be erected on the appeal site between the 1 April and the 31 October each year would also be necessary.

110. In view of my conclusions above, conditions relating to landscaping and ecological enhancement would not be necessary.
111. I have considered whether the imposition of suitably worded conditions could overcome the harms that I have identified above and make the development acceptable in planning terms. However, in my view the harms identified are intrinsic to the development proposed and could not be overcome by the imposition of conditions.

Temporary planning permission

112. The PPG indicates the circumstances where a temporary permission may be appropriate. These include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.
113. There would be some merit in having a trial run in this case, not so much in terms of assessing the effect of the development on the area, but in terms of whether the development proposed would bring the benefits that are envisaged. In particular, a trial run would establish whether the two rides generated the income anticipated and how beneficial that income was to the repair/maintenance of Central Pier and South Pier. It would also assist in establishing whether the proposed mechanism for directing the funds to the repair/maintenance of the two piers was effective and recordable.
114. However, I have found that the two rides would harm the setting of South Pier as a heritage asset. I have also found that the Starflyer ride harms the setting of Blackpool Tower. These harms would occur during the peak tourist season when many tourists/holidaymakers would be experiencing these heritage assets in their respective settings. This outweighs any benefits of a temporary planning permission in terms of the benefits that are envisaged.
115. The other circumstances indicated in the PPG where a temporary planning permission might be appropriate is where there is an expectation that the planning circumstances relating to the appeal site will change in the near future. The evidence before me is the revenue generated by the proposed rides would arrest in the decline in the condition of the piers but would not solve the whole problem relating to the repair and maintenance of the piers. The need for that repair and maintenance would therefore be ongoing year on year, in all probability long after a temporary planning permission had expired.
116. This is therefore not a situation whereby granting a temporary planning permission would enable sufficient funds to be accumulated to fix the problem once and for all. The problem that the proposed development seeks to address would still be present, potentially to an even great extent, at the end of the temporary permission. That is not the type of scenario envisaged in the PPG whereby a temporary planning permission would be appropriate.
117. I fully recognise that a temporary planning permission would reduce the harm(s) that I have identified, insofar as those harms would be reversible. However, having regard to the above, I conclude that a temporary planning permission would not be appropriate in this case.

Split Decision

118. Although submitted under the cover of one application, the two rides proposed are clearly identifiable separate entities and are severable. It is therefore open to me to issue a split decision.
119. The difficulty is that each of two rides proposed results in harm, albeit the nature and extent of that harm does vary between the two. Furthermore, by only granting planning permission for just one of those rides, the income generated would be reduced. As a consequence, the benefit in terms of the repair and maintenance of the piers would be commensurately reduced which in turn could affect the appellant's ability to secure the funds necessary to achieve even the minimum level of intervention identified by Mr Pratt.
120. For these reasons, I consider that a split decision is not a viable option in this case.

Conclusion on Appeal B

121. For the reasons set out above, the development proposed is contrary to the development plan. Having weighed the factors in support of the development, I am not persuaded that there are any material considerations of sufficient weight, either taken individually or cumulatively, to indicate that determination should be made otherwise than in accordance with the development plan. Accordingly, I conclude that planning permission ought not to be granted for the development that is proposed.

Formal Decisions

Appeal A Ref: APP/J2373/X/26/3378127

122. The appeal is dismissed.

Appeal B Ref: APP/J2373/W/26/3378234

123. The appeal is dismissed

Paul Freer

INSPECTOR

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DOCUMENTS SUBMITTED AT THE INQUIRY

- 1/ Opening submissions on behalf of the appellant.
- 2/ Opening submissions on behalf of the Local Planning Authority
- 3/ Combined schedule of draft conditions
- 4/ Appellant's note on conditions
- 5/ Map(s) showing suggested viewpoints for the site visit
- 6/ Closing submissions on behalf of the Local Planning Authority
- 7/ Closing submissions on behalf of the appellant