

**Application Number**

P/2015/0042

**Site Address**

Princess Gardens  
Off Torbay Road  
Torquay  
Devon  
TQ2 5EQ

**Case Officer**

Mrs Ruth Robinson

**Ward**

Tormohun

**Description**

Temporary erection and operation of a 50m observation wheel with ticket booking office to the west (front of wheel) adjoining coffee & crepe unit within a timber decked seating area to the south (facing out to the harbour) and secure panelled service, ride control and generator compound area to the east (pavilion side). Open daily to the public from Saturday 28th March 2015 until no later than Sunday 1st November 2015.

**Executive Summary/Key Outcomes**

This application is for a further temporary consent for the erection of a 50m observation wheel with ticket office and ancillary coffee and crepe unit.

It is proposed to begin construction from the 18th March 2015 and for the Wheel to be dismantled by the 6th November 2015. The Wheel is proposed to be operational for a 7 month period from the 28th March 2015 until the 1st November 2015.

The Wheel is to be sited adjacent to the Pavilion in Princess Gardens. The former is a Grade II listed building. The latter is a Grade II entry on the Register of Historic Parks and Gardens.

Temporary consent for an Observation Wheel was initially granted by the DMC on the 13th August 2012. This was for a 3 month period between the 13th August and 7th November 2012. Since that time there have been two further periods of temporary permission granted each time for a slightly longer period. This application represents the fourth request for permission for temporary use of the site for the Observation wheel.

This application seeks a further 7 month period for operation.

At the end of each period of occupation the Wheel has been removed from site within the prescribed time period and the site has been restored as agreed.

The wheel has been generally well received and popular with locals and tourists alike.

Objections relating to loss of privacy and light pollution have been received in response to previous applications from a number residents who directly overlook the site. This has reduced to a single objection in response to the current application.

It was concluded that privacy was not a sustainable objection to the scheme but that the level of light pollution could constitute a nuisance. Following surveys by a Lighting Engineer, suitable mitigation in the form of vinyl overlays to the pod lighting was secured by condition and these measures were in place for the duration of the previous occupation.

It was noted in the original report to Committee that a permanent permission for an Observation Wheel in this location would not be considered acceptable due to the impact on the Pavilion, which is a Grade II listed building, on its setting and on the character of the wider Princess Gardens, which is a Grade II entry on the register of Historic Parks and Gardens.

This report however recommended that a short term occupation of the site should be welcomed as it would enhance the tourist attraction of the area and any adverse impacts would be short lived and reversible. This has proven to be the case.

Given the current uncertainty over timing of the Pavilion redevelopment proposals, which, if on site would preclude continued occupation of this part of the gardens, then a further temporary period of occupation seems reasonable. Any future, more regular use of the Gardens by the Wheel should be subject to a more rigorous assessment as requested by EH and linked to mitigation to achieve some conservation benefit for the 'at risk' gardens.

### **Recommendation**

Approval, temporary consent be granted until 6th November 2015. Conditions are required to ensure that the agreed measures to reduce light nuisance are reinstated to the pods, to restrict hours of operation and achieve reinstatement of the affected part of the gardens.

### **Statutory Determination Period**

This application should be determined within an 8 week period as it only qualifies as minor development. The target date for determination is the 20th March 2015.

## **Site Details**

The observation wheel is proposed to be sited on the garden area immediately adjacent to the Pavilion. This is a sensitive location; it is prominent within the Torquay Harbour Conservation Area, is adjacent to a Grade II Listed building and set within Princess Gardens which is a Grade II entry on the Register of Historic Parks and Gardens. The Fountain and War Memorial, which are located close by are also Grade II listed.

## **Detailed Proposals**

This application is for temporary consent for the erection of a 50m observation wheel with ticket office and ancillary coffee and crepe unit from the 18th March 2015 until the 6th November 2015. It is proposed to be operational between the 28th March and the 1st November.

## **Summary Of Consultation Responses**

*English Heritage:* EH have consistently expressed concerns about the potential harm that this structure could cause to the Heritage Asset. Given that the proposal was temporary and the harmful impact short term and transitory a more pragmatic approach was taken. EH did stress that if the proposal was to become more permanent in nature, then a better assessment of its impact on Heritage Significance should be made. Their response to this further application, and to the suggestion in the submission that when the restoration of the Pavilion is up and running that an alternative location closer to the Princess Theatre would be investigated has generated a suggestion that the impact of the structure should be assessed against the criteria in EH's 'Temporary Structures in Historic Places' as it appears to be becoming an annual event. It is also suggested that as Princess Gardens is 'at risk' some mitigation or Conservation gain should be achieved.

*Garden History Society:* Do not wish to object due to the temporary nature of the scheme.

*Environment Agency:* Raises no objection to the scheme.

*Environmental Health:* Providing the light pollution mitigation continues then would raise no objection to the renewal of temporary consent.

## **Summary Of Representations**

Two letters of support have been received along with one letter of objection from a close neighbour to the site who continues to be concerned about the loss of privacy, light nuisance and noise.

These representations have been sent electronically to Members for their consideration.

### **Relevant Planning History**

P/2012/0690: Temporary consent for Observation Wheel between 13th August and November 2012: Approved 15.08.12.

P/2013/0167: Temporary Consent for period 24th May- 5th November: Approved 8.04.13.

P/2014/0193: Temporary consent for period March-October 2014. Approved: 15.04.14.

### **Key Issues/Material Considerations**

Due to the sensitive location of this proposal and its more frequent appearance, the effect on the listed buildings, the Registered Gardens and the wider Conservation Area is a key issue.

It has always been accepted that a permanent occupation of the site by the wheel would be, in the long term, harmful to the architectural and historical character of the site.

In granting the previous temporary consents, Members agreed with Officer advice that a temporary use of the site by the wheel was welcome as it would enhance the attractiveness of the wider area for tourists and residents alike and the impacts on the heritage features of the site were short term and reversible.

This has proven to be the case, the wheel has been immensely popular, has attracted tourists, created a dramatic and striking feature within the townscape and, once removed, the site was quickly and satisfactorily reinstated to its former condition.

A permanent use of the site for this purpose however is still considered unacceptable due to its impact particularly on the Pavilion and its setting. However, until the works to restore the Pavilion begin, it would seem reasonable to allow temporary uses such as this to continue as they do add to the tourist offer and enhance vitality of the area, compensating to some degree for that lost following the closure of the Pavilion.

Planning and Listed Building applications addressing the future of the Pavilion are currently under consideration. Given the uncertainty around timing of these proposals it seems reasonable to allow a further temporary period of occupation by the Wheel pending greater certainty about when works to the Pavilion are likely to take place. Clearly if they do proceed, the Wheel could not continue to

occupy this part of the Gardens and any alternative more regular location for the Wheel in Princess Gardens should be subject to a more rigorous assessment of impact as suggested by EH. The ability to derive some Conservation benefit to the Gardens should also be considered in more detail.

In terms of amenity, providing the light mitigation measures continue then any accepted impact on amenity will be satisfactorily dealt with. It has previously been determined that the impact on privacy and noise nuisance are not sustainable reasons to resist the Wheel subject to conditions to restrict the hours of operation.

The structure poses no threats to the structural integrity of the Pavilion or the Gardens, which comprise reclaimed land. This is due to the fact that the load of the structure is to be spread by increasing the size of the load bearing plates. This has all been agreed and verified by the Council's structural engineers. Matting, sleepers and boards will be used to minimise the impact of footfall on the ground around the wheel. The wheel will not operate in winds of over 40 mph.

It is important that the site is reinstated following occupation and this needs to be secured by condition.

As such it is not considered that a further period of temporary occupation will compromise the aims and objectives of policies BE5, BE6 or BE8 of the saved Adopted Local Plan 1997-2011.

## **Conclusions**

Previous concerns regarding light nuisance have been resolved through the use of vinyl overlays to the cabin lighting. Providing these measures continue then the impact on neighbours is minimised. Restrictions of the hours of operation will ensure that late night activity will not be a problem in terms of noise and disturbance.

English Heritage have concerns regarding the frequency of occupation of the site by the Wheel and its potential to harm the setting of the Pavilion and Princess Gardens. Given the current uncertainty over timing of the Pavilion proposals, which, if on site would preclude continued occupation of this part of the gardens, then a further temporary period of occupation seems reasonable. Any future, more regular use of the Gardens by the Wheel should be subject to a more rigorous assessment and linked to mitigation to achieve some conservation benefit for the 'at risk' gardens.

**Recommendation:**

Approval; subject to the following conditions.

01. Prior to any operation of the Wheel, the vinyl overlay as agreed in relation to P/2014/0193 shall be applied to the pods in accordance with the previous written advice of the Lighting Engineer. The vinyl overlay shall be retained in place for the duration of the Wheel's occupation of Princess Gardens.

Reason To ensure that residents who overlook the site are protected from unacceptable levels of light nuisance in accordance with policy EP5 of the Saved Torbay Local Plan 1995-2011.

02. The permission, allowing occupation of the site by the observation wheel, shall be for a temporary period only, and shall not commence until the 18th March 2015 and shall expire on or before the 6th November 2015. Following removal of the observation wheel on or before this date, the gardens shall be reinstated in accordance with details that shall have previously been submitted to and agreed in writing with the LPA. The agreed scheme of reinstatement shall be implemented in the first planting season following the removal of the wheel.

Reason: The use of the site by the Wheel is only acceptable on a short term basis and more lengthy occupation would be harmful to the setting of the listed buildings, to the character of the Registered Gardens and the wider Torquay Harbour Conservation Area contrary to policies BE6, BE8 and BE5 of the saved Torbay Local Plan 1995-2011.

03. The Wheel and associated ancillary catering facilities shall only operate between the hours of 10.00 hours and 22.00 hours daily.

Reason: To ensure that disturbance to residents who overlook the site is minimised.

**Relevant Policies**

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