

Application Number

P/2016/0384

Site AddressLand At
Princess Gardens
Off Torbay Road
Torquay
TQ2 5EY**Case Officer**

Mrs Ruth Robinson

Ward

Tormohun

Description

Change of use of land for the temporary erection and operation of a 50m observation wheel and associated ancillary development until 31 October 2016

Executive Summary/Key Outcomes

This is the fifth application for temporary consent for the erection of a 50m observation wheel with ticket office and ancillary coffee and crepe unit on land within Princess Gardens immediately adjacent to the Pavilion.

The former is a Grade II entry on the Register of Historic Parks and Gardens. The latter is a Grade II listed building.

The applicant wishes to commence work in time to have the Wheel in place for the Spring Bank holiday and proposes to remove it by the 31st October 2016.

The original report to Committee, in August 2012 confirmed 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.

Short term occupation of the site by the Wheel was however welcomed as it was considered it would enhance the tourist attraction of the area and any adverse impacts would be short lived and reversible. It also introduced some vitality to the area pending the resolution of the proposals for the Pavilion.

The report did however stress that any future, more regular use of the Gardens by the Wheel should be subject to a more rigorous assessment as requested by Historic England and linked to mitigation to achieve some conservation benefit for the 'at risk' gardens.

This request for a further period of occupation has come about as a 'stop gap' measure.

The applicants have been awarded a 5 year contract by the Council for the siting of an 'attraction' elsewhere within the Gardens.

A planning application was submitted in March to provide for a 5 year period of occupation by a larger observation wheel (55m in height) in the Gardens on a site located between the War Memorial and the Princess Theatre.

It was not accompanied by the required justification, a more rigorous assessment of its impact or any mitigation as has been repeatedly stressed in previous considerations of the applications on the site.

Providing this would have taken some considerable time and carried a risk that the Wheel would not have been in place for the summer season. The applicant took the decision to withdraw that application and resubmit for a further summer season adjacent to the Pavilion.

Concerns have been expressed about the impact of vehicles loading and moving the Wheel on the structural stability of the site. This could be ameliorated through a traffic management plan and more effective operational control during construction and dismantling. This can be addressed by means of a condition.

At the time of writing, no objections have been received from residents who overlook the site regarding the impact on amenity. It was concluded, in dealing with previous applications on the site, that erosion of privacy was not a sustainable objection to the scheme but that light pollution was and mitigation in the form of vinyl overlays to the pod lighting was secured by condition. These measures are included in the current proposal.

At the time of writing, one letter of support has been received.

Given the delay in resolving the Pavilion proposals, the benefits of short term occupation of this part of the gardens, as previously expressed and the benefits to tourism that have accrued from the Wheel being in place, then a further temporary period of consent is recommended.

Recommendation

Approval, temporary consent be granted until 31st October 2016. 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 3rd June 2016.

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 mid May until the 31st October 2016.

Summary Of Consultation Responses

Historic England: Whilst a formal response has not been received at the time of writing, HE 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. HE 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.

They have suggested in previous responses that the impact of the structure should be assessed against the criteria in EH's Temporary Structures in Historic Places' if it becomes more permanent in nature. It is also suggested that as Princess Gardens is 'at risk' some mitigation or Conservation gain should be achieved.

Garden History Society: No response to current application at the time of writing but did not wish to object to previous applications due to the temporary nature of the scheme.

Environment Agency: Raises no objection to the scheme.

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

The Principal Natural Environment Officer: Has suggested that a highway management plan is required to ease access to the site and minimise damage to pathways. The impact of axel loading on the stability of the site should also be assessed.

Summary Of Representations

One letter of support has been received at the time of writing. This has been sent electronically for Members 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.
- P/2015/0042: Temporary consent for period March-November 2015.

Key Issues/Material Considerations

This is the fifth application for temporary consent for the erection of a 50m observation wheel with ticket office and ancillary coffee and crepe unit on land within Princess Gardens immediately adjacent to the Pavilion.

The former is a Grade II entry on the Register of Historic Parks and Gardens. The latter is a Grade II listed building.

The applicant wishes to commence work in time to have the Wheel in place in time for the Spring Bank holiday and proposes to remove it by the 31st October 2016.

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 three further periods of temporary permission granted each time for a slightly longer period.

This application represents the fifth request for permission for temporary use of the site for the Observation wheel.

Relevant policies are paragraphs 132-134 of the NPPF and policies HE2 and SS10 of the Adopted Torbay Local Plan 2012-2030 in respect of the impact on the heritage asset and policy DE3 in terms of the impact on amenity.

There are three key issues to be considered, the impact on the heritage asset, on amenity and on the structural stability of the site.

1. Impact on the Heritage Asset.

It has always been accepted that a permanent occupation of the land adjacent to the Pavilion by the Observation Wheel would be, in the long term, harmful to the

architectural and historical character of the site.

It is likely, however, that this will be the last request for temporary occupation of this particular site.

This is primarily due to the fact that the applicants have been awarded a 5 year contract by the Council for the siting of an 'attraction' elsewhere within the Gardens. It is also anticipated that works could commence on the restoration of the Pavilion which would preclude continued occupation of this site by the Wheel in the event that planning permission and listed building consent are granted for these proposals later on this year.

A planning application was submitted in March this year for the erection of a larger, 55m Observation Wheel on the site identified in the Council tender documents. This is located between the War Memorial and the Princess Theatre and would occupy a majority of the plot and be positioned parallel to Rock Walk.

However no evidence was submitted to test or understand the impact on the wider heritage asset nor did the application include any mitigation to offset the impact of the Wheel on the Gardens other than the redevelopment of the shelter demolished to make way for the structure along with redevelopment of the partner shelter in a style to match.

This does not comply with HE advice over the last 4 years which has consistently stressed the need for the impact on the Gardens and the associated listed structures to be properly understood and for there to be adequate mitigation if any more permanent occupation is to be shown to be acceptable. This has been reflected in all Officer Reports to Members as being key in any move to introduce a more permanent attraction within the gardens.

There is a substantial amount of evidence required to satisfy both the LPA and HE that this represents an acceptable long term alternative location for the Observation Wheel. Some consultation with affected residents overlooking the site has also been recommended.

In order not to lose the Wheel for this season the applicant decided to withdraw that application and to resubmit for a further temporary period of occupation on the site adjacent the Pavilion.

It is only this temporary use which is the subject of this application.

Temporary occupation of this site pending works to restore the Pavilion was, in all previous reports to Members, argued to be beneficial as it would compensate to some degree for the loss of vitality and activity arising from the closure of the Pavilion and enhance the attractiveness of the wider area for tourists and residents alike. The short term and reversible nature of the impact

were also important considerations.

The wheel has been immensely popular, has attracted tourists, created a dramatic and striking feature within the townscape and has generated economic benefits for the town in terms of increased spend. Once removed, the site has been quickly and satisfactorily reinstated to its former condition.

In the circumstances, given the economic benefits of the wheel and the further delay in works to restore the Pavilion, it would seem reasonable to allow a further temporary period of occupation of this site.

Whilst there is harm to the heritage asset this is 'less than substantial' particularly in view of its temporary nature and this can be offset by public benefit under paragraph 134 of the NPPF given the economic and tourism benefits.

It still remains the case however that due to its proximity to the Grade II listed building a permanent use of the this site would not be acceptable as it would substantially detract from its architectural and historic quality and due to its location and size, impede restoration proposals coming forward.

2. Amenity.

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.

3. Structural Stability of the site.

The occupation of the site by the Wheel itself 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.

There is some concern that the weight and size of vehicles delivering the Wheel may have caused some damage to the structural integrity of the gardens and the means of accessing the site appears to have caused some damage to footways and kerbs. These matters are largely of an operational nature and should be picked up in the lease.

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

Conclusions

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

It is likely, however, that this will be the last request for temporary occupation of this particular site.

The applicants have been awarded a 5 year contract by the Council for the siting of an 'attraction' elsewhere within the Gardens.

This request for a further period of occupation of this site by the Wheel has come about as a 'stop gap' measure pending more detailed investigation into the suitability of this site in terms of its impact on the historic and architectural character of the listed gardens.

Given the delay in resolving the Pavilion proposals, the benefits of short term occupation of this part of the gardens and the benefits to tourism that have accrued from the Wheel being in place, then it is not considered that a further period of temporary occupation will compromise the aims and objectives of policies HE2 and SS10 of the Adopted Local Plan 2012-2030.

Recommended:

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 DE3 of the Adopted Torbay Local Plan 2012-2030.

02. The permission, allowing occupation of the site by the observation wheel, shall be for a temporary period only and shall expire on or before the 31st October 2016. 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 HE2 and SS10 of the Adopted Torbay Local Plan 2012-2030.

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 in accordance with policy DE3 of the Adopted Torbay Local Plan 2012-2030.

04. Prior to the wheel arriving on site a traffic management plan and details of the operational control during construction and dismantling shall be submitted to and approved by the Local Planning Authority. The operation of moving the wheel onto and off the site shall accord with the approved details.

Reason: In order to protect the structural integrity of the site, in accordance with Policies HE2 and SS10 of the Adopted Torbay Local Plan 2012-2030.

Relevant Policies

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