

**Application Number**

P/2014/0193

**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 and 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) March - October 2014

**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 22nd March and for the Wheel to be dismantled by the 31st October 2014. The Wheel is proposed to be operational for a 7 month period from the 4th April 2014 until the 26th October 2014. The application was received on the 4th March which means Members have not had an opportunity to consider the application in advance of implementation.

The Wheel is to be sited adjacent to the Pavilion in Princess Gardens. The former is a Grade II listed building. The latter, 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. It was removed from site within the prescribed time period and the site was restored as agreed. A further temporary consent was granted for a 5 month period between the 24th May and the 5th November 2013 at the DMC meeting of the 8th April 2013.

Again, it was removed from the site and the land restored as agreed. This application seeks a longer 7 month period for operation.

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

alike. However a number of residents who directly overlook the site raised concerns about loss of privacy and light pollution once the wheel was in place. It was concluded that privacy was not a sustainable objection to the scheme but that the level of light pollution could constitute a nuisance.

A condition was imposed on the previous consent requiring a Light Impact Assessment (LIA) to be carried out prior to operation of the use and mitigation measures to be put in place to reduce any identified light nuisance.

The Lighting Engineer was not appointed until the end of August and by the time the report was received on the 1st October the Wheel was close to being removed.

The LIA concluded that whilst the light did not contravene the guidance levels set by the Institute of Lighting Engineers, it had a moderately negative impact on adjacent properties and made a number of suggestions to mitigate this. These measures are not included in the current application.

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.

The key issue is whether a further period of temporary use is acceptable and whether the amenity concerns of near neighbours to the wheel can be mitigated.

Previous concerns relating to the ability of the site, which is reclaimed land, to bear the weight of this structure have been shown to be unfounded.

The landscaping of the site needs to be reinstated following expiry of the temporary consent.

### **Recommendation**

Approval, Subject to the response from the applicants in respect of mitigating the fluorescent cabin lighting, temporary consent be granted until 31st October 2014. Conditions are required to reduce light nuisance, 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 30th April 2014.

### **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 22nd March 2014 until the 31st October 2014. It is proposed to be operational between the 4th April and the 26th October.

### **Summary Of Consultation Responses**

*English Heritage:* Observations awaited: However it is worth noting that EH previously considered that the introduction of the Wheel would cause substantial harm to heritage significance and if required on a permanent basis would have attracted considerable objection. 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.

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

*Environmental Health:* Observations awaited: It is worth noting that the EHO previously requested a Light Pollution Impact Assessment in order that the degree of light nuisance could be understood and mitigation, if appropriate introduced.

### **Summary Of Representations**

Two letters of objection from close neighbours have been received concerned at light nuisance, loss of privacy, overbearing impact, noise intrusion and the fact of its erection prior to the consideration of the application. In relation to the previous applications for temporary consent, several letters of objection were received from near neighbours to the site raising in addition to amenity concerns traffic implications and effect on the listed building, Princess Gardens and the wider conservation area. These have been copied and sent electronically for Members consideration. Any further comments received will be forwarded to Members.

### **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.

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

Due to the sensitive location of this proposal, the effect on the listed buildings, the Registered Gardens and the wider conservation area is a key issue. It is also important to examine whether the impact of the scheme on near neighbours in terms of light nuisance can be mitigated.

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 consent, 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, compensating to some degree for that lost following the closure of the Pavilion.

An informative was added to the previous decision notice to request that any further applications for temporary consent address the issues raised by English Heritage in terms of demonstrating the impact on heritage assets. A short statement has been supplied. Planning and Listed Building Applications addressing the future of the Pavilion have been recently submitted so it is likely that the opportunities for temporary use of the site are coming to an end.

The amenity concerns of neighbours to the site in Delmonte, Rock Road and Eden Roc, Warren Road are relevant particularly in relation to light nuisance.

Members previously carried out a site visit to the affected homes and supported the EHOs request that a Light Impact Assessment be carried out before the Wheel was operational.

A Lighting Engineer was not appointed until the end of August 2013 and by the time the report was received; on the 1st October it was too late to act on.

It concluded that whilst the light spill did not contravene the guidance levels set by the Institute of Lighting Professionals, it did have a Moderate Negative Impact which could be reduced to Minor Negative through the implementation of 'simple measures'.

These were:

- i) The removal of the fluorescent lighting to the cabin exteriors
- ii) The dimming of the fluorescent cabin element.
- iii) The dimming of the decorative elements on the central circle.

The applicants have declined to do any of these things but have requested whether 'branded vinyls' could be applied to the exterior of the cabins or gondolas to reduce light nuisance.

The site is within an Area of Special Advertisement Control so the option of branded vinyls is not acceptable but they have been asked to look at the possible use of plain or translucent vinyl to mitigate light nuisance and a response is awaited.

It is necessary to restrict hours of operation to protect the amenity of nearby residents.

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 Councils 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.

### **Conclusions**

There is an impact on the amenity of neighbours to the site through light spill. This has been assessed by a Lighting Engineer through a Light Impact Assessment which was required as a condition pursuant to the previous application for temporary occupation of the site. This concluded that whilst it did not contravene light nuisance guidance, it did have a moderate negative impact which could be mitigated particularly through dimming the fluorescent cabin lighting. The applicants have not taken these suggestions on board but they have been asked to reconsider what can be done to reduce the impact of the fluorescent cabin lighting.

The hours of operation of the Wheel should be restricted to protect amenity.

However, subject to the response from the applicants in terms of mitigating the florescent cabin lighting, it is recommended that a further period of temporary permission is granted subject to restriction on the hours of operation and reinstatement of the site following the expiry of the use.

Recommended: Approval; subject to a satisfactory response in terms of mitigating the fluorescent cabin lighting, a condition to secure implementation of the agreed measures and the following conditions.

01. The permission, allowing occupation of the site by the observation wheel, shall be for a temporary period only, and shall not commence until the 22nd March 2014 and shall expire on or before the 31st October 2014. 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.

02. The Observation 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 nuisance to residents who overlook the site is minimised.

### **Relevant Policies**

- BES - Built environment strategy
- BE1 - Design of new development
- BE6 - Development affecting listed buildings
- BE8 - Historic parks and gardens
- EP5 - Light pollution