

COMMITTEE REPORT

Date: 17 February 2011 **Ward:** Guildhall
Team: Major and Commercial **Parish:** Guildhall Planning Panel
Team

Reference: 10/02794/FUL
Application at: York City Art Gallery Exhibition Square York YO1 2EW
For: Temporary (2 year) siting of 53m high Observation Wheel and permanent landscaping works following demolition of hutments to rear
By: Mr Michael Woodward
Application Type: Full Application
Target Date: 16 February 2011
Recommendation: Approve

1.0 PROPOSAL

1.1 The application is for temporary permission for a 53m high observation wheel on the land behind the City Art Gallery. The application as originally submitted sought planning permission for a period of three years. In light of some of the concerns expressed the application has been amended and permission is now sought for a two year period, enabling the wheel to be in situ until after the Easter period in 2013. The main entrance to the site would be from Exhibition Square. Access would also be available from Marygate and from the Museum Gardens during operating hours of the gardens. In addition to installation of the wheel and its holding platform, the proposals include also the following:

- A Yorkstone paved access path down the north side of York City Art Gallery.
- The creation of a paved terrace to the rear of the gallery.
- The gravelling of the area within the precinct walls to form a base for the wheel.
- A link footpath with ramps and steps to connect the site with Museum Gardens to the south.
- The extension of the lawned area currently used as a bowling green.

1.2 The York Museum's Trust have made the application as the income generated from the wheel at this site, for the temporary period, will enable the area of land behind the gallery to become an outside exhibition space, that would be landscaped and form an extension to the Museum Gardens in their existing form. There are companion applications for the associated works - Conservation Area Consent to demolish the hutments and Listed Building Consent, to form the access from Museum Gardens and to demolish extensions on the north east side of the City Art Gallery.

1.3 Members will be aware that an observation wheel was formerly located at the National Railway Museum on Leeman Road. The wheel was granted permission for 3 years in 2006 (application 06/00599/FUL).

1.4 The application site is not allocated in the Local Plan for a particular use; the bowling green is not designated open space. However the site is within the Central

Historic Core Conservation Area and City Centre Area of Archaeological Importance. The site is within the St Mary's Abbey Precinct. Part of the precinct (which is presently the museum gardens) is designated as a scheduled ancient monument, as are the precinct walls to the St Mary's Abbey which form the north and western boundaries to the site.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Central Historic Core CONF

Listed Buildings GMS Constraints:

- Grade 2; City Art Gallery Exhibition Square York 0615
- Grade 1; St Mary's Abbey Remains Precinct Walls
- Grade 2; Railings And Gates Fronting Kings Manor 0618
- Grade 1; City Walls St Mary's Tower To Bootham Tower 0611
- Grade 1; St Mary's Tower St Mary's Abbey Remains 0485

Scheduled Ancient Monuments GMS Constraints: SMR 12A St Mary's Abbey Precinct Walls SE 597520

2.2 Policies:

CYHE9

Scheduled Ancient Monuments

CYSP3

Safeguarding the Historic Character and Setting of York

CYGP1

Design

CYGP3

Planning against crime

CYNE6

Species protected by law

CYNE8

Green corridors

CYHE2

Development in historic locations

CYHE3

Conservation Areas

CYL1B

Loss of local leisure facilities

CYV1

Criteria for visitor related development

3.0 CONSULTATIONS

INTERNAL CONSULTEES

COMMUNITIES AND CULTURE

Support the application.

3.1 The scheme is in accordance with the aspiration of the cities Sustainable Community Strategy, to create high quality public spaces in the city.

3.2 It is proposed to cease use of the bowling green at the site. There have been 3 clubs who use the site, whom have been re-located, to Clarence Gardens and The Retreat, Heslington Lane. York Museum's Trust have agreed to provide funding for upgrading storage and shelter facilities at Clarence Garden's.

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT

No objection subject to conditions.

Works to side of gallery :-

3.3 A new Yorkstone paved access is proposed along the north elevation of York Art Gallery following the demolition of single storey annexes. This would significantly improve this run down alley way and allow public access. Samples of the proposed paving 'to match Exhibition Sq' would need to be agreed through an appropriate condition. There is no detail of the proposed lighting to this area or the proposed access gate - both of which are required. However, both are desirable and necessary. Any lighting fixed to the Art Gallery should ideally be considered as part of the Listed Building Application.

Works to the rear of the gallery:-

3.4 The suggested ramping up to meet the proposed terrace to the rear of the gallery is questioned and we await further detail on the proposed levels. The impact on the 2 large Beech trees at the NW corner of the gallery needs to be carefully considered and although this area is currently hard paved

3.5 The paved terrace to the rear of the gallery has great potential as an external exhibition space, however at this time in the absence of details showing how it will be connected to the gallery it may lack animation. The extent and levels of this area relative to the trees and the back of the gallery need to be confirmed. An enclosure (to bins / chillers) is indicated against the rear elevation of the gallery, this is acceptable in principle, but again there are no details provided - the detailed treatment will need to be agreed through condition.

3.6 The material for the gravelled area is not detailed and will also need to be controlled by an appropriate condition.

The path connecting the site to the Museum Gardens:-

3.7 This link to re-connect the site to the main area of Museum Gardens is critical to the success of the landscaping proposals. Whether the path should be paved in York stone or a more informal bound gravel material as those in Museum Gardens should perhaps be reconsidered. The forming of a new opening with iron gate in the stone dividing wall is also critical to the success of the project. The exact origins of the wall are not clear. It appears on plans between 1852 and 1874. It is likely to be contemporary with the gallery and its alignment has little historical basis. The proposed opening is acceptable and the principle of open iron gate agreed. A condition should be required to cover exact design details. It is suggested that it could better match adjacent railings and ironwork forms throughout the complex.

Ecology:-

3.8 Ask for a bat survey of the overall area to assess the potential impacts of the introduction of the wheel on any bats that may use the site and surrounding area. Initially this assessment should be a desk top study collating and analysing the existing information for the vicinity. Once such information is available, a more considered view of the potential impact of the proposal can be made.

3.9 The increase in lighting levels as a result of the proposed new use could have a significant impact on wildlife and especially bats, within the area, particularly for roosting, foraging and commuting. There are a number of recorded roost sites within the immediate surrounding area. There are also many excellent foraging opportunities and commuting links within this locality. The Museum Gardens being of particular importance and where a high level of bat activity has been seen.

3.10 Officers recommend that any scrub clearance/demolition be completed before mid March, to minimise likely disturbance to breeding birds nesting at the site. It may be possible to carry out demolition work later in the year on buildings provided that they are checked prior to demolition to ensure no nests are present.

ENVIRONMENTAL PROTECTION UNIT

3.11 No objections. However ask for the following information:

- A noise report to assess the impact on surrounding occupants. This is in particular a concern during the evening when background noise levels in the area will be lower.
- Details of lighting to the wheel, to consider the impact on surrounding occupants.
- A condition of approval to cover procedure should any unexpected contamination be found on the site.

HIGHWAY NETWORK MANAGEMENT

3.12 No objections, however ask for the following information:

- Detail of pedestrian access to ensure disabled access is suitably surfaced.
- As the car park area is not formally surfaced advise that a condition to prevent materials being deposited on the highway may be necessary.

- Details of how the wheel will be installed and removed. It is expected that due to the width of Marygate, craning may be necessary over the city walls. Officers would want re-assurances this will occur without causing damage.

EXTERNAL CONSULTEES

ENGLISH HERITAGE (EH)

Raise no objection to a time limited temporary permission, subject to conditions that recognise the wider public benefits.

3.13 EH Support the assessment supplied in the application that although the development will affect the setting of a number of listed structures, it would not have a negative impact on their significance. However consider the impact of the proposal on the setting of York Minster will be substantial. The 53 m high wheel will directly challenge the dominance of the Minster over its surrounding cityscape and rural hinterland and impact on its iconic status and significance. If the application were not for a temporary permission, EH would have recommended that the application be refused, on the grounds that there would be substantial harm to the setting of the Minster.

3.14 EH recognise the public benefit that the proposals could bring long term; enabling repairs to the gallery and the works at the rear, enhancing the Museum Gardens. EH ask that the allocation of revenue be specifically conditioned to fully implement this proposed public benefit, which will offset any harm to the setting of York Minster. Subject to this issue being resolved EH would not oppose the application.

POLICE ARCHITECTURAL LIAISON OFFICER (ALO)

Support the scheme, recommend conditions.

3.15 Figures show that the application site is in an area of high risk in respect of crime and disorder. The area around the Art Gallery and Museum Gardens is an alcohol exclusion zone and there have been problems at the site itself, with burglary, rough sleeping and drug use occurring. The proposed developments at the site will assist significantly in overcoming the identified problems.

3.16 There were no reported incidents while the wheel operated at the railway museum. That site was monitored by a security company, CCTV and lighting. This application proposes 24-hour security and officers ask if this can be secured as a condition of approval.

CONSERVATION AREAS ADVISORY PANEL

Object.

3.17 Opposed to the proposed development as any structure of this scale is deemed to be harmful to the setting of the Minster. At this site it would be uncharacteristic with the use of the gardens and have a harmful visual impact. The development would be an inappropriate use of the historic park, which is a botanical garden

containing historic structures of the highest importance. The position and size of the wheel were considered overbearing on the gardens, the ruins and also on the neighbouring streets of Marygate and Bootham. The panel also commented that pressures for commercialisation of the gardens appeared to go against CYC aims to green the city.

GUILDHALL PLANNING PANEL

3.18 Object on the following grounds:

- The building will only be slightly lower than the Minster and will dominate the city skyline. It will therefore be harmful to the historic identity of the city.
- Detrimental impact on residents living in view of the wheel.
- Potential impact on archaeology.
- Increased traffic congestion in the Bootham area.

YORK CIVIC TRUST

3.19 The wheel would have a detrimental impact on close and distant views of the city. No objection to the demolition required to enable the proposed development and the landscaping plans for the gardens. Note that Scheduled Ancient Monument (SAM) consent would also be required for these works (St Mary's Abbey remains and Museum Gardens designated SAM).

VISIT YORK

Support the proposals.

3.20 There would be improvement to the environment of, and access to St Mary's Precinct. The works would also aid in the expansion of the art gallery and improve its facilities. The wheel in this location would have economic benefits in particular that it would assist with the cities early evening economy.

RESPONSES TO NOTIFICATION AND PUBLICITY

3.21 Some 75 letters have been received objecting or raising concerns over the scheme, and 9 letters in support of the scheme have been received.

OBJECTIONS

3.22 Groups of note that have raised concerns with the scheme are the York Georgian Society, The North Yorks. Bat Group, The Green Party and the Dean and Chapter of York. The objections are collated and summarised as follows: -

i) To the principle of the development:-

- Question the need for the wheel; it is contrary to the main reason tourists visit the historic city, and elements of the city valued by residents. The city is already the 3rd most visited in the UK and this attraction will not have a material impact on the city's economy. The justification for the works is the removal of the hutments, and the subsequent enhancement of this area. However the visual impact of the existing

structures is limited, seen only from the King's Manor. In comparison the visual impact of the proposed structure would be significant and harmful.

- The structure would be out of character with the historic and cultural significance of the gardens and will detract from the setting of a number of listed buildings and scheduled ancient monuments. There will be need for signage, which is likely to detract from the appearance of the conservation area. The loss of the bowling green, for which there is still demand for, would be contrary to planning policy in the Local Plan.

- Allowing the wheel for 3 years would set a precedent and potentially create demand for its permanent installation at what is an unsuitable location.

- Question why the National Railway Museum could not continue to be used. That site is deemed more suitable and considering it is a council aspiration to improve links between this site and the city centre, the site has car parking, and is further away from historic buildings and residents.

- The wheel would have a detrimental impact on the cities bid for world heritage status

- Similar views of the city are already available to tourists from existing buildings such as Clifford's Tower and the Minster. Potentially competition from the proposed wheel would lead to a loss of income for these heritage assets.

- The application should have been subject to an Environmental Impact Assessment as the site is a sensitive site.

- The long terms plans involve the loss of the bowling green. Other such sites in the city have been lost, and an adequate supply of such facilities should be provided. Clarence Gardens Bowling Association are being increasingly asked to accommodate additional bowling clubs due to closures elsewhere (Minster Bowling Club and Burton Lane WMC recently). Due to the amount of users Clarence Gardens has a lack of facilities, in terms of shelter and changing facilities.

- When a wheel was proposed at North Street Gardens, the executive committee determined that such a structure needs to be sited sensitively and without either prejudicing existing amenity provision, or threatening the city's visual heritage. It was deemed that the site at North Street was therefore unsuitable. Objections consider this site is more sensitive, and therefore inappropriate.

- The proposal would have a harmful impact on the historic environment. This is grounds to refuse the application because it is contrary to the Town and Country Planning Act, which requires the Local Planning Authority to have special regard to the desirability of preserving any listed building and its setting, any features of special architectural or historic interest, and the character and appearance of any conservation area. The proposal also conflicts with the local plan strategy in terms of safeguarding the historic character and setting of York, which involves protecting the Minster's dominance on the cities skyline. Due to the location and scale of the wheel it will compete with the Minster for attention. Views will be affected from within the historic core conservation area (from the city walls for example), key gateways

into the city centre (such as Bootham which frames views of the Minster with its streetscape of listed buildings) and from distant views (from the Ings/green wedges leading into the city centre, ring road to the east and the Wolds).

ii) Amenity of surrounding occupants

- The overbearing impact of the wheel due to its height and proximity to residential premises.
- Overlooking/loss of privacy for surrounding residents (The wheel would be 20m from the residences of Bootham School and Wandlesford House on the north side of Bootham).
- Loss of outlook for residents.
- Noise associated with the use and subsequent additional activity in the area. Impact of the lighting. It has been asked that any illumination at night be emergency lighting only.
- King's Manor is used by the university for educational purposes. The noise and activity as a consequence of the proposed development would have an adverse impact on students

iii) Ecology

- Impact on wildlife, in particular species such as Bat and Owls. North Yorks. Bat Group advise that bats are a protected species and no surveys have been carried out to date to ascertain whether there will be an adverse impact on bats. Bats are known to be present nearby (Museum Gardens, River, nearby private gardens and along the railway line).

iv) Highway network management and operational issues

- Concern that tourists and extra traffic will use the Marygate site entrance and Marygate car park. Marygate is narrow and cars/coaches could block the highway. The road is already heavily used and wide enough for a single lane of traffic in places. It has been asked if there are any proposals to change the gates. It is suggested the use of this entrance be restricted to daytime hours and signage be limited.
- The main entrance should be via Exhibition Square, with restricted access from other areas
- The pavements are narrow on St Leonard's Place, Bootham and Gillygate. Increased pedestrian footfall could have a detrimental impact pedestrian safety.
- Any new pathways in the garden should be reversible, to respect their integrity and original concept.
- Construction management plan should be supplied regarding installation, to include a risk assessment over Abbey Walls and surrounding buildings.

- Ask about impact on the highway network and the ability of the nearby car parks to accommodate demand for parking.
- Wheel would distract drivers.
- Access and operational procedures have been asked for, to consider the impact on King's Manor. The location of emergency exits, toilets and customer flows have been specified.

v) The other specific objections are:

- Views and setting of St Mary's Abbey and its ruins. Imposing impact on the Museum Gardens. These are Scheduled Ancient Monuments of national importance that would be detrimentally affected. The juxtaposition of the proposed development alongside the Abbey Remains, City Walls and King's Manor (the two latter are both grade 1 listed) presents a clash of architectural elements which will degrade the Romantic aspects of Museum Gardens and devalue both its historic status and that of the conservation area as a whole.
- Character and setting of Margate and its surrounds, a reasonably quiet and predominantly residential area.
- Residents at various locations in the city have written to amplify concern that their views of the city and Minster would be spoilt as a consequence of the proposed wheel.
- Proposed work connecting to city walls - shops which abut city walls already suffer from damp and there is concern works could worsen this.
- The potential impact on television signals.

SUPPORT

- It has been proven in the past the proposed development would bring economic benefit to the city (The London Eye is the most popular paid attraction in the UK and sits comfortably with its historic surroundings).
- Positive change, benefit to tourism offer and business in the area. No long term harm to the city.
- Enhance the Museum Gardens and potential to improve pedestrian links through the site, between Lendal and Bootham for example.
- The wheel needs to be close to the city centre and its historic buildings in order to succeed and this location is appropriate.
- The houses on Marygate would be over 50m from the wheel and would not be unduly overlooked.

4.0 APPRAISAL

4.1 KEY ISSUES:-

- Principle of the proposed development
- Impact on the city, the conservation area and setting of listed buildings
- Impact on amenity of surrounding occupants
- Impact on nature
- Highway Network Management
- Implications regarding the bowling green
- Safety, crime and disorder

PRINCIPLE OF THE PROPOSED DEVELOPMENT

4.2 Sequentially the site is desirable for the proposed facility, being in the city centre and within walking distance from main bus and rail links. The site is previously developed and in principle the location accords to where national policy in PPS4 and local policy seek to locate such economic development.

IMPACT ON THE CITY, THE CONSERVATION AREA AND SETTING OF LISTED BUILDINGS

4.3 Due to the location and scale of the development it will visually impact on the setting of the city while the wheel is in place. The impact on nearby listed buildings and character and appearance the central historic core conservation area are material considerations. Relevant policies to consider are PPS5: Planning and the Historic Environment and of the Local Plan, policies SP3, GP1 and HE2, which are intended to ensure the historic setting and positive aspects of townscapes in general (such as scale, materials and urban spaces, public views, skyline and landmarks) are respected by development proposals. Policy HE9 of PPS5 advises that proposals which would adversely affect scheduled ancient monuments will not be supported. English Heritage guidance advises that in considering the impact on setting although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors and by our understanding of the historic relationship between places.

VIEWS WITHIN THE CONSERVATION AREA

4.4 The York Central Historic Core Conservation Area is characterised by a dense concentration of fine-grained urban form with a tight medieval street pattern. Although in distant views the Minster dominates the skyline, from within the City streets it is only seen in 'surprise' revealed views. There are more locations within the central area where the Minster cannot be seen from street level than where it can. The proposed wheel would similarly only be visible from certain locations and in certain views from within the City and not always in the same view as the Minster. Certainly in key views such as that along Low Petergate from the junction with Goodramgate the proposed wheel would not be seen.

4.5 This is also evident in the immediate vicinity of the site. In views along Bootham from outside Bootham school on the north side of the street the Minster is barely visible – Bootham Bar is dead ahead and the proposed wheel would be visible to the

right / south. From the opposite side of the road (outside 50 Bootham) the Minster is in clear view but the wheel would not be seen behind the buildings lining the street. The same is true of views along Gillygate.

VIEWS FROM THE CITY WALLS

4.6 Some of the best views of the city can be gained from the City Walls and there are several well known viewpoints. The walls opposite the station afford one of the best views of the Minster and in this view the proposed wheel would be seen to the left / west of the Minster, but in most cases screened by trees to the south.

4.7 Any counterpoint to the Minster's majesty and dominance of the city skyline would be harmful – indeed the tower to St Wilfred's church on Duncombe Place provides a direct counterpoint in most views.

4.8 In views across the city from the south from Baille Hill or Walmgate the proposed wheel whilst visible would be beyond the Minster, again standing in conflict to the dominance / majesty of the Minster.

IMPACT ON ADJACENT HERITAGE ASSETS

4.8 The impact of the wheel on the setting of the adjacent listed buildings is such that it detracts in some way from their setting in certain views, perhaps particularly the City Gallery when viewed from Exhibition Square and from the City Walls at Bootham Bar; however, this visibility does not harm the significance of these heritage assets. The proposed wheel would be seen in immediate views along Bootham (from the Gillygate junction) and here its potentially looming presence would be harmful in terms its direct impact on this part of the Conservation Area. However, as discussed above this impact is very localised.

LIGHTING OF THE WHEEL

4.9 There is insufficient detail to assess this aspect of the proposal – the additional information submitted 30 January confirms that the illumination is limited to the structure and by low intensity LED lighting confined to the hrs of operation. The installation at the NRM did not suggest any particular issues – here the proximity to the Minster makes the proposed illumination and the levels of illumination more critical. The Minster itself is of course floodlight and because of its creamy stone and solidity it is likely to maintain the dominant appearance in the evening / after dark. The detail of the lighting installation will be covered by condition.

VIEWS OF THE CONSERVATION AREA AND MINSTER FROM MORE DISTANT VIEW POINTS

4.10 The proposed wheel will be clearly visible in certain key landscape views from distant vantage points. Views of the Minster and the City in their landscape setting are one of York's special characteristics. There is no agreed framework setting out the most important views and the visual impact assessment provided with the application does not cover all views. However, the analysis of the view from Askham indicates that the wheel will be clearly visible in views of the City and Minster and will

be seen as a counterpoint to the Minster. The proposal is therefore harmful to the significance of this highly graded heritage asset.

4.11 The challenge to the dominance / majesty of the Minster as the key feature on the skyline makes the proposed wheel a harmful intervention. The view from Water End (adjacent to Poppleton Road School) has also been identified as particularly important. From this viewpoint the Wheel is seen in close proximity to the west from of the Minster.

4.12 The Minster is some 150m long and 75m to the lantern tower the wheel is 53m high / in circumference other City landmarks visible in this view include St Wilfred's tower and the Foss Island Chimney which is c50m high.

4.13 There can be no doubt that the wheel would have an impact on the setting of York Minster and the wider Conservation Area. The fact that the wheel is not solid and that there is visibility 'through' the wheel is a given, however, this does not in itself mitigate the impact, where the main impact is as a counterpoint to the dominance of the Minster in the landscape and distant views. The wheel is not an elegant design icon in the way the London Eye is a bespoke design and therefore comparisons here and mitigation arguments are not justified.

4.14 However, the impact / harm is not uniform from all viewpoints. It is accepted that in views from the south west and north east the alignment of the wheel results in a reduced visual impact as per the visualisation from Askham. The wheel and Minster can be seen in the 360 deg round. In some circumstances the proposed wheel is behind the Minster in others in front. In certain views e.g. from travelling vehicles / trains the view is dynamic.

4.15 It is clear that as a permanent proposal the wheel could not be justified. However notwithstanding the harmful impact there is a wider benefit. The siting of the wheel for a temporary 2-year period would facilitate the demolition of the hutments to the rear of the gallery and the opening up of this under-used city centre space for wider public use. A space which has considerable historic significance.

4.16 YMT has detailed proposals for the development of Museum Gardens and the Art Gallery which have wider potential to benefit the City as a whole. These have been set out in detail in development plan documents over the last few years.

4.17 The public benefit here is therefore such that the harm of a temporary period of visual intrusion (2 yrs) is mitigated by the benefits arising. The balancing argument is made more difficult where policy and guidance is most commonly applicable to proposals for permanent development.

IMPACT ON AMENITY OF SURROUNDING OCCUPANTS

4.18 Policy GP1 requires that all developments do not have an undue adverse impact from noise disturbance, overlooking, overshadowing or from overdominant structures.

4.19 The 'pods' of the wheel would be around 45 to 50m from the nearest properties on Marygate. The electoral register advises the upstairs at 36 Bootham is in

residential use. It appears that other premises within the block of 36-42 Bootham may also be in residential use and the upper floor windows overlook the application site. No objections have been received from any residents at 36-42 Bootham however. The rear elevation of no.42 Bootham is around 21m from the 'pods' on the wheel, windows at the rear of no. 36 would be around 5m from the 'pod's. On the northern side of Bootham, the closest residents affected at no.33, are 25m away from the proposed wheel.

4.20 The proposed wheel could have an over-dominant appearance due to its height, which could lead to the perception of overlooking. However apart from the distance involved between the 'pods' and the rear elevation of 36-38 Bootham, the distance between the 'pods' and windows/gardens would make overlooking towards gardens and windows oblique and distant. At the rear of 36-38 due to the building configuration and position of windows, 2 windows on no.38 could be overlooked from the 'pods', but not the windows at the rear of no.36. Of the premises affected that are known to be in residential occupation, there would not be an undue impact on the amenity of surrounding residents in terms of overlooking.

4.21 As stated earlier the wheel would because of its scale be a dominant addition to the setting. However when policy GP1 refers to preventing overshadowing and overdominant, it is referring structures impeding short views or leading toward loss of light, from either windows or gardens. The proposed wheel because of its design, location and distance from surrounding buildings would not have an undue adverse impact in this respect.

4.22 The proposed wheel in operation would run at around 60dB, at a distance of 10m away. Noise levels may be reduced if a generator is not required (which is being investigated), or mitigated by acoustic screening if necessary.

4.23 Bootham is a major arterial road into York. It is likely that due to traffic noise, the wheel would not exceed background noise levels presently in the area, subsequently noise would not have a material impact on the amenity of surrounding occupants. In addition the confinement of the site by the precinct walls would help to ensure that any noise from generators or motors, which would be at or near ground level, is relatively contained. The 10pm closing would also ensure that the 'quiet' hours of 1100 to 0700 are not affected by the proposal. In light of the considerations it would be more appropriate to impose a condition requiring details of equipment and noise levels to be agreed prior to installation

IMPACT ON NATURE

4.24 Policy NE6 of the Local Plan relates to species protected by law. It states that where a proposal may have a significant effect on protected species or habitats, applicants will be expected to undertake an appropriate assessment demonstrating proposed mitigation measures. Planning permission will not be granted where developments will cause demonstrable harm to species protected by law or their habitats. Policy NE7 relates to habitat creation and protection. It states that development proposals will be required to retain important natural habitats and where possible include measures to enhance or supplement these. In new developments, measurements to encourage the establishment of new habitats should be included as part of the overall scheme.

4.25 A desktop survey is to be submitted which informs likely-hood of bats at the site and the surrounding area. Mitigation measures may be necessary. Details of lighting and any roosts nearby the site also needs to be considered. It could be a condition that accommodation for bats be accommodated at the site after the lifetime of the wheel.

HIGHWAY NETWORK MANAGEMENT

4.26 Policy V1 of the Local Plan advises that visitor related development will be encouraged provided; there are adequate servicing arrangements, the site is accessible by public transport, whether highway safety would not be compromised.

4.27 Due to the location of the site it can be reasonably expected that visitors would arrive by alternative means to the car. If not the cities car parks would need to be used. The front of Exhibition Square proves a drop-off point for coaches. This is a sustainable location, which fits with national policy in PPG13 which seeks to encourage alternative means of transport to the private car.

4.28 There is level access. It could be a condition that cycle parking for staff is provided whilst the wheel is at the site. A construction management plan can be required as a condition to mitigate disturbance and in the interests of safety during construction.

IMPLICATIONS REGARDING THE BOWLING GREEN

4.29 As the bowling green is not allocated as open space in the Local Plan, the relevant policy is L1b, which relates to the loss of leisure facilities. L1b advises this may occur when a need for the facility no longer exists and when there are appropriate alternative facilities nearby.

4.30 Officers understand that there are 3 clubs that use the green and it has been agreed to relocate them to Clarence Gardens and possibly The Retreat. The applicants will fund necessary upgrades to these facilities. It is questionable whether a 'need' for the facility no longer exists. The Clarence Gardens Bowling Association report it is more the case that it is a council intention to consolidate the number of sites that it manages. It appears there is some conflict with policy L1b, however there are 2 bowling greens within the St Mary's Abbey Precinct, and potentially the wheel could be accommodated on-site with each green remaining in-situ, if that was the desire of the landowners.

CRIME AND ANTI-SOCIAL BEHAVIOUR

4.31 It is proposed a security firm will monitor the site. The means of securing the site outside hours of operation can be secured through an appropriate condition. There is no evidence that the proposed use would lead to crime or disorder and by bringing the site into active use, and ensuring it is secure (access is restricted otherwise) will improve the existing situation.

5.0 CONCLUSION

5.1 The proposal by YMT to landscape this semi derelict area of Museum Gardens and to open it to public access is a welcome improvement. Improved public access to an area of the City which has such historic significance, allowing greater appreciation of the whole of St Mary's Abbey precinct and better access to the St Mary's corner tower and walls is a valuable public benefit.

5.2 The temporary siting of 53m high observation wheel to the rear of the Art Gallery is in some ways compatible with previous use of the site as a temporary exhibition hall. This aspect of the proposal does cause harm to the setting of York Minster and the City Centre Conservation area, however, this harm is for a temporary period of 2 years.

5.3 The proposal affords an opportunity to re-discover a forgotten and neglected part of the City's heritage and the wheel offers the potential for a temporary and dynamic vantage point from which the city's special characteristics of dense urban form and medieval street pattern can be appreciated by a wide audience.

5.4 On balance the benefits, which are permanent, make the temporary location of the observation wheel for a 2-year period only acceptable. In addition the development would not have an undue impact on highway safety and residential amenity.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

Conditions:-

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

P171 20 01 Proposed site plan.

P171 20 02 Proposed layout.

P171 20 04 Proposed layout after removal of the wheel.

P171 30 01 Details of the proposed wheel

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

2 The wheel and associated structures hereby approved shall be fully installed and operational before the 31st December 2011, and the development hereby approved shall cease use and the wheel and all associated structures shall be removed from the site within 2 years of the date which it is first open to the public.

Reason: In the interests of preserving the historic setting and the impact on the city skyline, given that this site is only deemed suitable for a temporary period as a result of the heritage benefits as a direct result of the proposal.

3 Outside the hours of 10:00 to 22:00 each day of the week the wheel shall not be used, all lighting (apart from any required emergency lighting) shall be turned off and the site secured/closed to the public.

Reason: In the interests of the amenity of surrounding occupants and security.

4 Notwithstanding the plans hereby approved, a detailed plan of the proposed hard landscaping measures shall be submitted to and approved by the Local Planning Authority prior to first use of the wheel. Samples of the surfacing materials shall also be submitted for approval and the development carried out in accordance with the approved details.

Reason: In the interests of the setting of listed buildings and the appearance of the conservation area.

5 A detailed landscaping scheme which shall illustrate how the site shall be restored after the lifetime of the wheel shall be submitted to and approved in writing by the Local Planning Authority before 1 April 2013. The approved scheme shall be implemented accordingly within 6 months of the aforementioned date.

Reason: To ensure that the heritage benefits proposed as a consequence of the scheme are achieved, in the interests of the character and appearance of the conservation area and setting of listed buildings.

6 Prior to installation of the wheel, a detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing by the Local Planning Authority and the development carried out accordingly.

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of amenity of local residents, free flow of traffic or safety of highway users.

7 Details of all machinery, plant and equipment to be installed in or located on the use hereby permitted, which is audible outside the application site, shall be submitted to the Local Planning Authority for written approval. These details shall include maximum ($L_{Amax}(f)$) and average sound levels (L_{Aeq}), octave band noise levels and any proposed noise mitigation measures. All such approved machinery, plant and equipment shall not be used on the site except in accordance with the prior written approval of the local planning authority. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Reason: To protect the amenity of local residents and businesses.

8 Details of the proposed lighting to the wheel and any other external lighting to the site, to include location, manufacturers details, and details of light spill, shall be submitted to and approved in writing by the Local Planning Authority prior to first use of the wheel and the works shall be carried out in accordance with the approved details.

Reason: In the interests of amenity and to preserve the historic setting.

9 Prior to first use of the wheel details of the areas for staff cycle parking (to including type of secure fixing, elevations, materials and means of enclosure where proposed) shall be submitted to and approved in writing by the Local Planning Authority. The wheel shall not be opened to the public until the facilities have been provided in accordance with the approved details, and the facilities shall be provided/maintained thereafter for the period of this permission.

Reason: To ensure adequate space for, and to encourage cycle use in accordance with policies GP1, and T4 of the City of York Draft Local Plan.

10 Before the commencement of development, including demolition, building operations, or the importing of materials and any excavations, a method statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include details of protective fencing, phasing of works, site access during demolition/construction, type of construction machinery/vehicles to be used, (including delivery and collection lorries and arrangements for loading/off-loading), parking arrangements for site vehicles and storage of materials. It is particularly important that the following details are included within the statement: construction details and existing and proposed levels, where a change in surface material and/or levels are proposed within the canopy spread and likely rooting zone of a tree.

Reason: To protect existing trees that are shown to be retained within the development proposals and are considered to make a significant contribution to the amenity of the area.

11 The following details of measures for bat mitigation and conservation shall be submitted to and approved by the Local Planning Authority and the development implemented accordingly.

- a. Any lighting proposed within the site, and how any potential subsequent impacts on bats and other wildlife will be minimised. This shall show how light spillage will be minimised, and ensure that any roost sites, foraging or commuting areas are not directly illuminated. To be submitted before first use of the wheel.
- b. Provision to be made within the restoration of the site to provide features for bats. Features include the use of special tiles, bricks, soffit boards, bat boxes and bat lofts and should at least replace or substitute for what is existing.

Reason: To take account of and enhance habitat for a protected species, in accordance with PPS9: Biodiversity and Geological Conservation and policies NE6 and NE7 of the Draft Local Plan.

RELEVANT INFORMATIVE

- Under PPS9 the replacement/mitigation proposed is expected to provide a net gain in wildlife value.
- If bats are discovered during the course of the work, then work should cease in the pertinent area and Natural England consulted.

12 In the event that contamination is found at any time when carrying out the approved development, the findings must be reported in writing immediately to the Local Planning Authority. In such cases, an investigation and risk assessment must be undertaken, and where remediation (clean-up) is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable safety and health risks.

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