

## COMMITTEE REPORT

**Date:** 24 November 2011      **Ward:** Micklegate  
**Team:** Major and                      **Parish:** Micklegate Planning  
                    Commercial Team                      Panel

**Reference:** 11/02650/FUL  
**Application at:** Royal York Hotel Station Road York YO24 1AY  
**For:** Siting of a 53 metre diameter observation wheel to be positioned  
                    until January 2013  
**By:** Mr Max Carlish  
**Application Type:** Full Application  
**Target Date:** 1 December 2011  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 The application is for temporary permission for a 53m high observation wheel, which would be located within the garden at the Royal York Hotel. Permission is sought to allow the wheel until January 2013. Since the original submission, the position of the wheel has been revised. It would now be 14m further from Westgate apartments at its nearest point; at least 56m from the apartments.

1.2 The Royal York Hotel is a grade 2 listed building within the Central Historic Core Conservation Area.

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).

### 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  
York North West Boundary GMS Constraints: York North West Boundary CONF

2.2 Policies:

CYSP3  
Safeguarding the Historic Character and Setting of York

CYGP1  
Design

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CYGP3

Planning against crime

CYNE6

Species protected by law

CYHE2

Development in historic locations

CYHE3

Conservation Areas

CYHE4

Listed Buildings

CYV1

Criteria for visitor related development

### **3.0 CONSULTATIONS**

#### **DESIGN AND CONSERVATION**

3.1 The temporary siting of the proposed 53m high observation wheel in the grounds of the Royal York (Station) hotel would be harmful to the setting of the hotel and its associated garden curtilage as designated heritage assets and also to the setting of the railway station train shed. The wheel would be around twice the height of the hotel building. It is engineered for erection and dismantling and therefore is not nearly as elegant as the London Eye. Subsequently the proposal would also cause harm to the setting of York Minster, the City Walls and the City Centre Conservation area, however, this harm is for a temporary period of 14 months only.

3.2 The proposed wheel does offer an opportunity 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.

3.3 On balance the temporary period as a mitigating factor reduces the level of harm, although there are no lasting benefits and the means of access and details of lighting are insufficiently detailed. Officers ask that the details of lighting are agreed to as a condition if permission is granted.

Countryside officer

3.4 Comments on the supplied bat survey: The first bats were observed early on in the evening around the time of sunset (6:47pm). This would suggest that there is a roost close by, although it is not known where. It is unlikely there is a roost onsite as

bats were not seen emerging from or returning to buildings onsite. The proposed positioning of the wheel does not, according to the survey results, cut across any main commuting routes, and provided that measures are in place once the wheel is operational (as well as during the construction phase) to ensure that any potential impacts on or disturbance to bats currently using the site are minimised, the siting of the wheel in this location should not be a problem.

3.5 Officer's main concern is over lighting in the garden area which is presently dark at night in contrast to the developed areas around the hotel. The original proposal includes the use of LED lighting on all parts of the observation wheel along with four flood lights and arena vision lamps within the general area, which would not be suitable. A more sensitive lighting scheme is required, and the times during which the lights are on should also be limited in order to provide some dark periods, not just for bats but also other wildlife species which may use the site. Officers consider the proposed closing time and switching off of the lights at 9pm would be acceptable with regard to this.

## ENVIRONMENTAL PROTECTION

No objection.

3.6 Noise: EPU are satisfied that the proposed wheel will not result in loss of amenity to the nearest residential dwellings due to noise. Use of the wheel will cease at 21:00. The operation of the wheel would be below current background noise levels. Current background noise levels have been measured as being 60.3dB(A) Leq and 46.8 dB(A) L90 at the quietest time periods measured. The proposed wheel produces a sound pressure level of 60dB(A) at a distance of 10m, so the likely sound level at Westgate flats can be calculated as being 46dB(A).

3.7 In terms of noise affecting the hotel it is understood that the application is supported by the hotel and that since the land is owned by the hotel that there will be some element of control for the hotel should any noise problems occur. As a result EPU has not considered the potential impact on the hotel.

3.8 Lighting: Details submitted within the application on the lighting for the wheel does not include information on the likely level of light spill. However details on the proposed lighting would indicate that there are only likely to be 4 x 2kW floodlights used to light the columns and 12 arena vision lamps which may cause issue. At the previous location at the National Railway Museum EPU is not aware of any complaint regarding light and since the wheel will cease operating at 21:00 it is unlikely that the light will result in loss of amenity due to lighting. However details of any light spill are asked for. In order to ensure that the lighting does not cause loss of amenity, it is requested only any required emergency lighting be on after 21:00.

## HIGHWAY NETWORK MANAGEMENT

3.9 Officer's preference is for access from Station Rise. Details of how the entrance will facilitate pedestrian movements associated with this visitor attraction are required. With regards construction, the components which make up the Wheel are intended to be delivered by lorry via the Leeman Road access, and in order to minimise disruption to other road users, including the Park and Ride services, the dates and times of these activities need to be agreed with officers in advance.

## SAFER YORK PARTNERSHIP

3.10 No objection. Officers are satisfied there would be adequate site security and welcome the commitment to making safety checks on the wheel.

## ENGLISH HERITAGE

3.11 No objection. Officers consider the harm on heritage assets (scheduled monuments, listed buildings and the conservation area) in particular the dominance of the Minster on the city skyline would be less than substantial (in PPS5 policy terms) and the harm would be mitigated by the temporary nature of the wheel.

## VISIT YORK

3.12 No response to date.

## CONSERVATION AREAS ADVISORY PANEL

3.13 The majority of the panel felt very strongly that this was not the right location for the wheel. The wheel would be 3 times as high as the hotel and as such would detract from the setting of this Grade 2 listed building. The panel did not feel that York should be prepared to accept such a mundane 'fairground' attraction which compromised the cultural value of the city. The panel were also of the opinion that if the proposal was approved that no signage should be allowed on the railings. The panel had grave concerns regarding access issues. The panel were concerned that giving the temporary permission would create a precedent for a permanent structure and that the only mitigation for the harm to the Conservation area is that it is a temporary structure. The panel also felt that the orientation proposed was wrong.

## MICKLEGATE PLANNING PANEL

3.14 No response to date.

## PUBLICITY

3.15 Objections have been received (27 in total) on the following grounds -

- Majority of objections raise the issue of overlooking and loss of privacy to the apartments at Westgate. The apartments have living and bedroom windows which would look toward the proposed wheel.
- Visual impact - overdominant, eyesore, out of character with the appearance of this part of the conservation area, and setting of the city walls. The wheel is incoherent with the historic character, and attraction of the city. Detrimental impact on views from within the conservation area.
- The Minster should remain the dominant building on the city skyline. In other cities where such historic buildings have to compete for attention their impact is reduced. This should not occur to the Minster.
- A similar view can already be achieved from the Minster, why should the wheel be allowed to compete?
- Potential for light and noise pollution.
- Extra traffic on Leeman Road
- Would lead to illegal parking
- Motorists would be distracted
- Concern if the scheme were approved, it would be likely an application would be made for a longer time period.

## 4.0 APPRAISAL

### 4.1 KEY ISSUES

- Impact on heritage assets
- Impact on the amenity of surrounding occupants
- Highway safety
- Impact on protected species and trees
- Crime and disorder

### IMPACT ON HERITAGE ASSETS

4.2 The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development that affects a listed building or its setting the local planning authority (LPA) shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. In considering whether to grant planning permission with respect to any buildings or other land in a conservation area, the local planning authority shall pay special attention to the desirability of preserving or enhancing the character or appearance of that area

4.3 PPS5: Planning and the Historic Environment advises that in determining applications affecting listed buildings and conservation areas (heritage assets) LPA's should weigh the public benefit of the proposal against any harm; and recognise that the greater the harm to the significance of heritage assets the greater the justification will be needed for any loss.

4.4 The companion English Heritage guidance note provides further information on public benefit. It advises that where a proposal causes minor harm there will still be a loss of value to society caused by that harm. This is a loss of public benefit that needs to be weighed against any other public benefits the proposal will bring. When change is proposed it is the responsibility of the LPA to consider whether any adverse impact on the listed building/conservation area is out-weighed by heritage benefits, such benefits can be when proposals -

- Sustain or enhance the significance of a heritage asset and the contribution of its setting.
- Reduces or remove risks to a heritage asset.
- Secure the optimum viable use of a heritage asset in support of its long term conservation.
- Makes a positive contribution to economic vitality and sustainable communities.
- Are an appropriate design for its context and makes a positive contribution to the appearance, character, quality and local distinctiveness of the historic environment.
- Better reveal the significance of a heritage asset and therefore enhances our enjoyment of it and the sense of place.

4.5 English Heritage also has a guidance note on temporary structures in the historic environment. The guidance note "Temporary Structures in Historic Places" recognises that events in historic places make a vital contribution to the economic sustainability of our heritage, assisting in securing optimum viable use, in accordance with PPS5. Events generate income and allow visitors to experience historic places/buildings. The guide does warn that temporary structures are not appropriate in every location. In considering whether to grant permission for temporary structures it is recommended physical and visual impact (including any associated signage) are considered. Visual impact can be mitigated, by choosing a location that is shielded from view by other buildings or landscaping, and adverse impacts should be minimised. LPA's are advised to consider; setting, in particular impact from key views, design of the structure, duration of use, public access benefits and financial benefits.

4.6 The Ministerial statement from March 2011: Planning for Growth is also a material consideration. It establishes that the Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. Government's clear expectation is that the answer to development and growth

should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.

4.7 Policy SP3 of the Local Plan: Safeguarding the Historic Character and Setting of York advises a high priority will be given to the protection of the historic character and setting of York. When considering planning applications the Council will seek to protect key historic townscape features, particularly in the city centre, that contribute to the unique historic character and setting of the city and protect the Minster's dominance in distant views of the city skyline.

4.8 The draft Core Strategy of York's Local Development Framework (currently at consultation stage) makes the protection, preservation and enhancement of significant views a strategic objective of the city.

4.9 Within the Central Historic Core Conservation Area Appraisal, analysis identifies key views of the conservation area. The analysis considers the character and sensitivity of the skyline and building heights and seeks to protect and enhance views of the conservation area. It suggests building heights within the Central Historic Core do not exceed 5-storey to preserve the setting. The document advises what makes York special, part of this is the diversity of the city and how it has developed and changed over time, however a key townscape elements given is: the relationship between the glorious, dominating presence of the Minster and the scale of the rest of the townscape: viewed from the walls and other high points. The document advises that the city skyline is a vital part of the character of the townscape, because it is largely still dominated by the towers and steeples of the Church and because it is prominent in the public experience from the elevated view points of the City Walls and Clifford's Tower.

4.10 Local Plan policies GP1: Design and HE2: Development in Historic Locations have the intention of respecting historic setting and positive aspects of townscapes in general (considering scale, materials and urban spaces, public views, skyline and landmarks).

4.11 The key views of the Minster from within the Central Historic Core identified in the Central Historic Core Conservation Area Appraisal would largely be unaffected due to the separation distance between the two structures. The wheel would though affect the long distance views of the city; at points along the inner ring road and more distant views from Green Hammerton and Crayke. The conservation area appraisal document seeks to protect such views, it asks that tall buildings in the city centre are not permitted where they would challenge the visual supremacy of the Minster; that the development of tall buildings does not occur to each side of the Minster and that development both within the foreground and the backdrop of the Minster should not challenge the visibility and pre-eminence of the cathedral nor break its silhouette. In the aforementioned long distance views, the wheel would be seen alongside the Minster. Views of the Minster would not be blocked and the

Minster would remain the taller building. The Minster's West towers are a similar height to the proposed wheel, although the wheel would appear lower, as the ground levels at the application site are around 10m lower than those at the Minster. For reference the lantern tower at the Minster is some 71m high, the Cedar Court Hotel is 27m high to its ridge, and Westgate apartments are some 22m high.

4.12 The gardens to the Royal York where it proposed to locate the wheel are enclosed by the hotel building and groups of trees. In addition there are tall trees within the burial grounds and city wall embankment to the SE. The trees will help screen views of the wheel from street level around the site, and from the city walls. However due to the height of the wheel it would still be prominent, in particular from the City Walls, and it would appear out of keeping with the townscape that the Central Historic Core Conservation Area deems as being a positive aspect of the conservation area.

4.13 The Royal York is a grade 2 listed building which overlooks its gardens. The wheel would detract from this setting due to the design and scale of the wheel itself and the associated utilitarian loading platform and ancillary buildings which would not sit harmoniously within the garden. The harm would be in the short term only, there would be no loss of trees, and landscape restoration could be conditioned following removal of the structure.

4.14 Officers consider that in its proposed position the wheel would be an unacceptable addition to the city skyline if it were to be installed on a permanent basis. It would compete with the Minster for attention and detract from the historic townscape which makes the city special. However it is only proposed to install the wheel for 14 months, which as English Heritage point out, is a mitigating factor which reduces the harm on the historic environment. The visual prominence of the wheel can be mitigated by restricting the level of illumination. Lighting should, in accordance with policy in the Local Plan, be subtle. There would be no need to light the wheel after closure at 21:00 each day and this could be secured via a condition.

4.15 There are options for the amount of illumination to the wheel. Officer's preference is for only the capsules and supporting posts to be lit, with white light. The approach would provide subtle lighting which would not unduly detract from the historic setting. It is suggested a condition is imposed to allow the levels of illumination to be agreed as a condition if the scheme is supported.

4.16 PPS5 policy advises that to determine application such as this any heritage benefits are considered. One heritage benefit which applies in this case is when a scheme makes a positive contribution to economic vitality. In addition the benefits identified in the EH note on temporary buildings apply, and the ministerial statement which clearly looks to support economic growth must be given weight in assessing the proposals. Subject to agreement on the method/amount of lighting officers



consider that the impact on the historic environment, as the wheel would be temporary, would not be undue.

## AMENITY OF SURROUNDING OCCUPANTS

4.17 Local Plan policy GP1: Design requires that schemes have no undue adverse impact from noise disturbance, overlooking, overshadowing or from overdominant structures. The wheel would be 56m from the nearest windows at Westgate residential apartments. CABA (Commission for the Built Environment, which is now part of the Design Council) document By Design, a national guidance document, advises that in urban locations such as this, a reasonable separation distance for 5-storey buildings is 27m. Consequently a building proposed in closer proximity to Westgate apartments than the proposed wheel could be deemed acceptable on residential amenity grounds. However, unlike windows serving a conventional building, the perception of being overlooked from the wheel would be constant due to the nature of the proposed development.

4.18 The apartments at Westgate are single aspect, with living and bedroom windows looking towards the Royal York Hotel gardens. Windows to living rooms are full height and wide, designed to maximise outlook. There is an intervening group of trees between the wheel and the apartments, although these are not high enough to prevent overlooking. From within the pods, there would be angled views looking toward the windows on Westgate apartments. Throughout the daytime residents would experience a perception of being overlooked due to the scale of the wheel. However due to the angled view, the glazing specification on the large windows on Westgate apartments (darkened glass which limits inward views during the daytime), the presence of blinds and the separation distance between the wheel and the apartments, actual views into rooms would be limited during the daytime. The impact from overlooking is deemed not to be unacceptable.

## HIGHWAY SAFETY

4.19 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.

4.20 The platform of the wheel has the capacity to accommodate 200 persons waiting to board the wheel. The wheel has a capacity for 1,000 per hour. Based on wheels elsewhere it is expected there would be no more than 200 persons using the wheel each hour. As such queuing will be able to occur on the wheel platform, and would not lead to any conflict on or off site.

4.21 It is proposed to form a new entrance from Station Road into the hotel gardens. This would involve forming a gap in the hedge, removing the edging to the footpath, and creating a temporary footpath into the site. This arrangement will separate

visitors from the hotel car park. Details of the entrance, including any associated signage, and that the hedge and pavement be restored when the wheel is removed from site could be secured through conditions of approval.

4.22 The facility is in a location that is accessible by alternative means of transport to the private car. Guests arriving by car would be expected to use car parks within the city centre; there are a number of car parks within walking distance of the site. There is no evidence that the wheel would generate additional traffic that would have an adverse impact on highway safety.

## BATS

4.23 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.

4.24 A bat survey has been undertaken which established that common Pipistrelle bats use all areas of the Royal York Hotel gardens to forage for food. No evidence of a bat roost at the site was found. The survey noted the existing site is well lit, and foraging is limited. Foraging activity was concentrated over the lawn to the north east, the ornamental shrub planting around the fountain, and the cluster of mature trees within the northern corner of the gardens. Peak activity was detected between 19:00 to 19:30.

4.25 The bat survey demonstrates that, in accordance with policy NE6, the proposals would not have a significant impact on protected species or their habitat. The installation of the observation wheel has the potential to reduce the amount of foraging within the gardens. However no vegetation will be lost and provided only low level lighting is used, and at restricted times, there would not be an undue impact. The timing and amount of lighting could be agreed as a condition of approval.

## CRIME AND DISORDER

4.26 Local Plan policy GP3 advises that crime prevention is a material planning consideration and identifies measures which should be considered in developments in order to create safer environments. The applicants advise that the site would be managed by a security firm on a 24 hour basis.

## 5.0 CONCLUSION

5.1 It is asked that the wheel be allowed to be installed within the gardens of the hotel until January 2013. Provided that the site is restored to its extant condition after the wheel has been removed officers consider the scheme is acceptable on this short-term temporary basis. A longer period of permission could not be supported as the detrimental impact on the character and appearance of the city and the Central Historic Core Conservation Area, and the setting of listed buildings would then outweigh any benefits arising from the proposals. In addition the perception of being overlooked, which would affect residents in Westgate apartments, would be unacceptable on a long-term basis.

## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve

1 The wheel and all its associated fittings and fixtures shall be removed from site by February 2013.

Reason: As the proposed development would have an inappropriate impact on heritage assets and amenity on a permanent basis.

2 Approved plans 2671- 01 H and 02 G

3 The wheel shall only operate between the hours of 09:00 and 21:00 hours each day of the week.

Reason: In the interests of visual amenity, and the amenity of surrounding occupants.

4 Details of all lighting shall be submitted to, and approved in writing by, the Local Planning Authority before the development commences. The development shall operate in accordance with the approved details. The details shall include

- Lighting strategy and strength of lighting to wheel
- For lighting on the platform and within the site; the location and design of lighting units and lightspill (shown vertically and horizontally).

Reason: To control the impact on heritage assets and wildlife.

5 The lighting to the wheel and any ancillary lighting shall only be turned on between dusk and 21:00 each day of the week. Any emergency/safety lighting required shall be approved in writing by the Local Planning Authority (to include justification and details of lighting), and shall operate in accordance with the

approved details thereafter.

Reason: To control the impact on heritage assets and wildlife.

6 Large scale details of the proposed customer entrance shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details. Details shall include specification of existing and proposed surfacing and any means of securing the site outside hours of operation. Consideration shall be given to preserving any historic fabric. The opening shall be at least 1.7m wide.

Reason: To preserve the appearance of the conservation area and setting of the listed building.

7 A scheme of site restoration (hard and soft landscaping) shall be approved in writing by the Local Planning Authority and fully implemented before April 2013.

Reason: To preserve the appearance of the conservation area and setting of the listed building.

8 Details of any signage shall be submitted to and approved in writing by the Local Planning Authority prior to installation and shall be carried out in accordance with the approved details. All signage shall be fully removed by February 2013.

Reason: To preserve the appearance of the conservation area and setting of the listed building.

9 Before the commencement of development, including building operations, or the importing of materials and any excavations, a method statement regarding protection measures for the trees onsite shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include details and locations of protective fencing; phasing of works; site access for construction and methodology; type of construction machinery/vehicles to be used (including delivery and collection lorries and arrangements for loading/off-loading); parking arrangements for site vehicles; locations for storage of materials; locations of utilities. Details of any new hardstanding/surfacing shall also be included. The development shall be implemented in accordance with the approved statement.

Reason: To protect existing trees which are covered by a Tree Preservation Order and/or are considered to make a significant contribution to the amenity of this area.

10 Prior to the commencement of any works details of the dates and times of deliveries of, and removal of, the components of the wheel shall be agreed in writing with the Local Planning Authority.

Apart from the delivery and removal of the component parts of the wheel, there shall be no other vehicular or pedestrian movements taking place via the Leeman Road access to the Royal Station Hotel, in connection with this visitor attraction.

Reason: In the interests of highway safety.

## **7.0 INFORMATIVES:**

### **1. REASON FOR APPROVAL**

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the impact on heritage assets, amenity and highway safety. As such the proposal complies with Policies SP3, GP1, GP3, NE6, HE2, HE3, HE4, V1 of the City of York Development Control Local Plan.

#### **Contact details:**

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