

## COMMITTEE REPORT

**Date:** 21 February 2013      **Ward:** Micklegate  
**Team:** Major and      **Parish:** Micklegate Planning  
Commercial Team      Panel

**Reference:** 13/00047/FUL  
**Application at:** Royal York Hotel Station Road York YO24 1AY  
**For:** Variation of conditions 1, 7 and 8 of permitted application  
11/02650/FUL to allow observation wheel to operate until 30  
September 2013 and the site to be restored by 30 November 2013  
**By:** Wheels Entertainments Ltd  
**Application Type:** Full Application  
**Target Date:** 12 March 2013  
**Recommendation:** Approve

### 1.0 PROPOSAL

1.1 The application relates to the wheel currently in situ in the grounds of the Royal York Hotel. Temporary permission was granted for the wheel in November 2011, which required the wheel to be removed from site by 1 March 2013.

1.2 This application is to extend the life of the wheel until 30 September 2013. The attraction is presently open until 20.00 through the week, 21.00 on Friday and Saturday nights. A condition of the planning permission requires the wheel to close at 21.00.

### 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  
City Boundary GMS Constraints: York City Boundary 0001  
DC Area Teams GMS Constraints: Central Area 0002  
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  
CYHE2 Development in historic locations  
CYHE3 Conservation Areas  
CYHE4 Listed Buildings  
CYV1 Criteria for visitor related development

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## 3.0 CONSULTATIONS

The overall expiry for comments is 13.2.2013.

### INTERNAL

### DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT

3.1 The temporary siting of 53m observation wheel to in the grounds of the Royal York (Station) hotel is harmful to the following heritage assets –

- the setting of the hotel and its associated garden curtilage and the setting of the railway station train shed.
- the setting of York Minster and the City Centre Conservation area, by virtue of the scale of the wheel in context. However, the location ensures some separation from the Minster silhouette in the majority of the key views as defined in the views analysis, and any harm is for a temporary period.

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 long term benefits secured by this application.

### ENVIRONMENTAL PROTECTION UNIT

3.4 No objection. Since then the wheel has been in operation EPU have received 3 or 4 complaints (in Jan & July last year) about noise and light.

- Noise - related to the noise associated with wind blowing through the structure and from a banging which occurred periodically. The latter was resolved after servicing the wheel. EPU consider that noise as a result of wind blowing through the structure does not cause an unacceptable disturbance and do not object to the operation of the wheel on such grounds.
- Lighting - complaints related to lights on the wheel being left on and sunlight shining through the wheel itself. Once again EPU did not establish any nuisance or loss of amenity.

## EXTERNAL

### CONSERVATION AREAS ADVISORY PANEL

3.5 The panel were ambivalent regarding the proposed extension of time until the end of the summer, but under no circumstances should there be a further extension. The panel also suggested that funds for the re-instatement of the gardens should be lodged in a ring fenced account in case there is no available funding in September.

### ENGLISH HERITAGE

3.6 No comment.

### VISIT YORK

3.7 No response to date.

### MICKLEGATE PLANNING PANEL

3.8 No response to date.

## PUBLICITY

3.9 At the time of writing there are 15 objections to the wheel. The objections are made on the following grounds:-

- Overlooking into all rooms in apartments on Westgate & loss of privacy - residents have to keep their blinds shut during the day.
- Over-bearing & adverse effect on views from apartments.
- Noise from the wheel, in particular when it is windy. It has been stated that EPU have refused to record the noise from the wheel when it is windy.
- Reflections from the wheel in motion within the apartments (when the sun is behind it) which is very disruptive.
- TV reception – the TV signal in Westgate apartments was interrupted by the wheel to the extent that the aerial had to be replaced.
- The wheel is not a popular attraction so why does it need to stay?
- Demonstrable benefit to the local economy? Few jobs created & money spent by visitors (who would be in York already) on the wheel is money that would otherwise go on other attractions/amenities in the city. The company who previously operated the wheel went into administration, it has been asked whether business rates have been fully paid to the Council, or if taxpayers are funding the operation? Also whether the operators are able to afford removal of the wheel?
- Visual impact – the structure is an eyesore on the city skyline and damages the visual dominance of the Minster and the cities historic setting. It is noted that

conservation bodies - English Heritage, the Conservation Advisory Panel and officers at the Council deemed the wheel was harmful and only initially allowed it on the basis it was for a temporary period. Some Councillors also assured residents that they considered the wheel could only be allowed for the period originally approved.

- There is inadequate parking for visitors which has led to illegal parking on Leeman Road.
- In wet weather people waiting to use the wheel congregate under the canopy of Westgate apartments, causing obstruction and dropping litter.

One letter in support

- Benefits for the economy as the wheel is a different type of attraction which helps encourage visitors.
- The city centre location helps the city centre economy, this is increasingly important as the centre becomes under threat from out of town retail led developments.
- The modern appearance of the wheel does not detract from the city skyline and it sits comfortably next to Westgate apartments; also a modern building.
- The person in support of the proposal has not witnessed any adverse annoyances associated with the wheel.

## **4.0 APPRAISAL**

### **4.1 KEY ISSUES**

- Impact on the setting
- Impact on the amenity of surrounding occupants

### **IMPACT ON THE SETTING**

4.2 When commenting on the 2011 application for the wheel English Heritage considered that the wheel would be a dominant structure on the city skyline, alongside the Minster. The degree of harm that would be generated would be 'less than substantial' as the wheel would only be a temporary structure. According to the National Planning Policy Framework where a proposal will have less than substantial harm, this harm should be weighed against the public benefits of the proposal to ascertain whether the development is acceptable.

4.3 The public benefits of the wheel (considering English Heritage guidance on this matter) is that the development makes a positive contribution to the city's economy, adding to the tourist amenities York offers. Also it provides the public with a different experience of the historic setting i.e. the views of the listed buildings within the Central Historic Core Conservation Area and the wider area.

4.4 The wheel has been in situ since December 2011. To allow the extension of time proposed would still equate to a lifetime of less than 2 years. The proposals remain for a temporary structure that would not in the long-term damage the historic setting and the gardens to the hotel could be fully restored.

## IMPACT ON THE AMENITY OF SURROUNDING OCCUPANTS

4.5 The National Planning Policy Framework asks that developments always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. In assessing amenity, Local Plan policy GP1: Design requires that schemes have no undue adverse impact from noise disturbance, overlooking, overshadowing or from over-dominant structures.

4.6 Officers' original assessment of the wheel, as established in the 2011 Committee report, was that the wheel would not have an undue impact on residential amenity.

4.7 The apartments at Westgate which face the grounds of the Royal York Hotel are single aspect, with living and bedroom windows looking towards the wheel. Windows to living rooms are full height and wide, designed to maximise outlook. Residents report that they constantly feel overlooked by the wheel and it is an over-dominant and over-bearing structure. Perceived overlooking can be a material planning consideration, although the weight to be attached depends on the particular circumstances of the case.

4.8 From within the pods, there are angled views looking toward the windows on Westgate apartments. The wheel is around 41m away from the apartments. Due to the separation distance and type of glazing used for the apartment's windows, there are not views into the apartments from the wheel during daylight hours. However the balconies are overlooked and activity within the apartments is apparent in the dark, if lights in the apartments are on and the blinds are not closed. Officers maintain that the level of overlooking that actually results from the development does not present grounds to refuse the application. The balconies are not designed to be private and the level of overlooking is no worse than would be expected between conventional buildings. In addition the wheel only revolves 3 times per ride, and customers would be more focused on more distant and varied views of the city, rather than looking immediately down onto the apartments. The operators advise that peak times are between 12.00 and 15.00. There are far fewer customers outside these hours.

4.9 Since the wheel was introduced complaints have been received from residents over noise from the wheel when in operation, that TV reception in Westgate Apartments was detrimentally affected by the wheel and reports have been made of anti-social behaviour on Leeman Road.

## NOISE & LIGHT POLLUTION

4.10 Several reports have been received about nuisance from noise and light. The National Planning Policy Framework advises that planning decisions should aim to avoid noise from giving rise to significant adverse impacts (considering World Health Organisation Guidelines) on health and quality of life, and use planning conditions where necessary to mitigate impact. Planning decisions should limit the impact of light pollution from artificial light on local amenity.

4.11 On one occasion in June it was reported that the wheel was causing noise disturbance. This matter was resolved by works to the wheel, and no further complaints were made. With regards noise when it is windy; this cannot be considered as a 'significant adverse impact', such noise would occur during 'daytime' hours only and irregularly.

4.12 Lighting was initially left on within the grounds of the hotel after closing time on an evening. The lighting is now controlled by a timer which turns the lighting off outside operating hours. It has been reported that moving reflections/shadows of the wheel are evident in the apartments. Due to the orientation of the wheel this could occur in afternoons in the winter months when the sun is lower. Officers accept this may be an annoyance for residents, but consider the impact is not unacceptable as the harm would be limited and only occur occasionally.

## TV RECEPTION

4.13 It is understood that TV reception in the apartments was adversely affected by the wheel. This has now been resolved. It is not clear if the remediation works were financed by the wheel operators or residents; we have had conflicting reports on this matter.

## ANTI-SOCIAL BEHAVIOUR

4.14 There is no evidence that anti-social behaviour in the area is related to the presence of the wheel. More likely it would be linked to alcohol consumption and persons travelling between the railway station and drinking establishments in the city centre.

## 5.0 CONCLUSION

5.1 If the application were allowed the wheel would still be situ for under 2 years. Whilst officers maintain that a permanent permission should not be granted for the wheel due to the resultant long-term impact on the historic setting, the proposed time-frame is still short term. The impact on the historic environment would be low, to the extent that the public benefit of the scheme out-weighs the harm caused to the historic environment.

## **6.0 RECOMMENDATION:** Approve

1 The wheel shall not operate after 30.9.2013.

The wheel and all its associated fittings and fixtures, including signage and the access arrangements shall be removed from site and areas made good by 30.11.2013.

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

2 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.

3 Apart from emergency lighting, the lighting to the wheel and any ancillary lighting shall only be turned on between dusk and 21:00 each day of the week.

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

4 A scheme of site restoration (hard and soft landscaping) shall be approved in writing by the Local Planning Authority and fully implemented before 30.11.2013.

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

5 Prior to the commencement of works details of the dates and times of the removal of the wheel shall be agreed in writing with the Local Planning Authority. Apart from the 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:**

### **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.

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**STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH**  
In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome: the use of planning conditions to manage the impact on heritage assets, residential amenity and highway safety.

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