

	<b>REPORT TO PLANNING &amp; DEVELOPMENT COMMITTEE</b>  <b>TO BE HELD ON THURSDAY, 3 October 2019</b>	
<b>APPLICATION REFERENCE NO:</b>  <b>19/01844/RG4</b>	<b>TARGET DATE:</b>  <b>3 October 2019</b>	<b>GRID REF:</b>  <b>504494-488587</b>

## REPORT OF THE PLANNING SERVICES MANAGER – PSM/19/192

**SUBJECT: Retention of 32-metre high Ferris wheel until 10 November 2019 at Futurist Theatre Futurist Buildings Foreshore Road Scarborough North Yorkshire for Observation Wheel UK (Mr Abbott)**

### 1.0 THE PROPOSAL

1.1 The application proposes the continued siting of a 32 metre high Ferris wheel and associated structures on the site formerly occupied by the Futurist Theatre on Foreshore Road, until 10th November 2019. The wheel was originally erected on the site on 30th July as a temporary use of the site for not more than 28 days (in any calendar year) using the permitted development right under Class B of Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. The applicant is therefore seeking to retain the wheel for a further two and a half months on the site, over and above the permitted 28 days.

1.2 The Ferris wheel, which is operated by Observation Wheel UK, has a wheel of 30.64 metres in diameter that has 24 spokes and which supports 24 gondolas, with glazed screens and an umbrella style roof covering. The wheel, support structures and gondolas are all finished in a shade of white. A ticket office is positioned at ground level along with railings and a ramped access to allow access to the gondolas. The wheel rotates at a slow speed to allow customers to enjoy views of the South Bay and its surroundings.

1.3 The site lies in a central position along Foreshore Road, and is sited in close proximity to amusement arcades and seafront shops with the South Bay beach positioned a short distance to the east, across the carriageway of Foreshore Road. To the north of the site lies a terrace of listed buildings on Prospect Place, properties in mixed use on Blands Cliff and the Coney Island amusement centres which fronts both Blands Cliff and Foreshore Road. To the south is St Nicholas Gardens and public steps that give access to King Street, which is positioned above the site. To the west is a grassed slope and retaining wall, with a mix of commercial and residential dwellings below this, fronting King Street.

### 2.0 SCREENING OPINION REQUIRED?

2.1 No.

### 3.0 PRE-APPLICATION COMMUNITY ENGAGEMENT

3.1 None.

### 4.0 CONSULTATIONS AND COMMENTS

The following is a summary of the key and relevant comments received from consultees and interested parties. Their full comments and any accompanying documentation are available to view on the Council's website.

4.1 Environmental Services (SBC) - In general terms I would be concerned that an attraction of this nature could give rise to complaints of loss of residential amenity from noise and/or lights. However as it has now been in use for a few weeks, it has become apparent that this is not the case due to its quiet operation and absence of any scream factor, as well as its operating hours. In order for this to be continued I would suggest that the operating hours be conditioned and that no additional lighting be provided without written approval of the Local Planning Authority.

4.2 Engineering Services (SBC) - The application has been reviewed and there are no objections from an engineering point of view.

4.3 Historic England - On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

4.4 Conservation Officer (SBC) - Based on the fact that the structure is only proposed to be a temporary addition to the urban environment, I consider that the visual harm caused for the proposed temporary period is outweighed by the public benefits. Consequently, should the Local Planning Authority be minded to grant planning permission for a temporary period I consider that such a decision can be made in accordance with both the statutory duty required by the Planning (Listed Buildings and Conservation Areas) Act and the relevant Local Plan policies. As a result, I raise no objection to the proposal on heritage grounds subject to an appropriately worded condition being applied to ensure the wheel is only sited on a temporary basis.

4.5 Publicity - Consultation period expired on 19 September 2019. The following representations have been received from residents on King Street, Prospect Place and Bland's Cliff:

1. In general the wheel has not caused problems as its operation is quiet, there is no screaming and it almost always never operates past 6pm. So as a temporary attraction we do not have a problem except for the points below.
2. We would like reiterate and to stress the problem of excessive lighting as severely affecting residents and others. As the wheel has not been operating into the full evening the lights were only properly visible on the one late evening of testing when it was quite obvious that they were not the low lighting we were told and that they were indeed very bright flashing lights. They were quite excessive and intrusive and also made one feel

quite ill. I believe they have turned off the land facing lights at the request of residents, but this does not always seem to be the case.

3. We also do not want to have a precedent set that no one objected to the wheel and therefore we may end up with more of these types of things on the site, becoming brighter and louder when Scarborough and we residents deserve better.

4. We do not really like the fact that over time hundreds of people can look into our garden. Our windows are at angles to the wheel and therefore not affected, I know those residents whose windows are involved worry about intrusion especially at night time, with unintentional invasive videos and photos being taken.

5. It is quiet and the lighting has been adjusted so neighbours are not unduly affected. There is no vibration. There is some intrusion of privacy, overlooking into our garden and home, which we are monitoring. The wheel allows views to our grade 2 listed historic terrace, which was duly noted as important in the Council's own futurist development brief of 2012.

6. There is a lack of security around the site as a whole with children playing on the high retaining wall. (Officer note: This concern is noted although the retaining wall does not form part of the current operation. The issue has been raised with the Council as landowner.)

7. Having experienced the wheel for five weeks, I see this as an invasion of our privacy, with riders being able to look directly down into our windows and garden.

8. Also we were led to understand that there would be no intrusive lighting on the wheel but the bright central lighting panel can be seen directly from our windows and this is going to become more of a problem as the nights draw in. Also I am assuming that the peripheral lights and those on the spokes will not be illuminated on our side of the wheel, as if they are, this would also be a major cause of concern.

## 5.0 RELEVANT SITE HISTORY

5.1 2017 - Demolition of Futurist Buildings granted planning permission subject to conditions.

## 6.0 PLANNING POLICY

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of The Town and Country Planning Act 1990 require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise (in the case of advertisement applications the Advertisement Regulations 2007 are applicable). Attention is drawn to the following Development Plan and other planning policies and guidance which are considered to be particularly relevant to the consideration of this application:-

### **Scarborough Borough Local Plan 2017**

**DEC 1** - Principles of Good Design

**DEC 4** - Protection of Amenity

**TOU 1** - New Tourism Facilities

**ENV 3** - Environmental Risk

**DEC 5** - The Historic and Built Environment

## **National Planning Policy Framework**

**NPPF14** - Meeting the challenge of climate change, flooding and coastal change

**NPPF16** - Conserving and enhancing the historic environment

## **Scarborough Borough Supplementary Planning Documents**

None relevant

## **Local Planning Policy and Guidance**

None relevant

## **7.0 ASSESSMENT**

7.1 Taking into account relevant planning policy, representations, consultation responses and other material planning considerations, Officers consider the key issues in the determination of this application to be:

- Principle of the development
- Impact on the character of the Conservation Area
- Impact on the setting of Listed Buildings
- Impact on amenity
- Flood Risk.

Principle of the development

7.2 Local Plan Policy TOU1 (New Tourism Facilities) supports the diversification of the tourism industry within the Borough. It advises that proposals for development of new tourism facilities will be permitted where they respect the distinctive tourism character of the area in which the development is proposed, both in terms of the scale and nature of the development. Paragraph 7.76 advises that tourism is fundamental to the local economy, with more than 7 million visitors attracted to the area every year by its seaside resorts, dramatic coastline and landscape, its built heritage and proximity to the North York Moors National Park.

7.3 The temporary siting of the Ferris wheel on Foreshore Road, is considered to accord with Policy TOU1 of the Local Plan, as it brings a new tourist attraction to the South Bay for the Summer season. The temporary nature of the development meant that its installation could be undertaken in a short timeframe, involving a structure which is self supporting and simply rests of the public space created where the footprint of the former Futurist Buildings stood. The attraction is considered to provide for an instant boost to the Foreshore Road offer, following the many months of demolition and slope remodelling work that have taken place on the site.

7.4 The Ferris wheel, whilst a relatively tall structure, is considered to respect the distinctive tourism character of the Scarborough seafront. The attraction sits comfortably alongside the amusement arcades, shops and food outlets area positioned on Foreshore Road. The rising levels of the land to the north, south and west of the site form an attractive backdrop against which the wheel is viewed. The rising levels and

the lightweight structure of the wheel reduces its visual impact within its setting. The slow speed at which the wheel operates and the lack of noise associated with its operation means the structure is not visually or aurally disruptive.

7.5 The wheel is considered to be a visually attractive structure. Its structural elements and the gondolas that carry customers are visually lightweight and views are readily available through the structure, with the result that the structure is not visually obstructive or jarring in a variety of views from close to and at some distance, as well as from views gained from higher levels and from the seafront and the South Bay. As a temporary visitor attraction the wheel is considered to add to the distinctive character of the South Bay and is deemed to accord with Policy DEC1 (principles of Good Design) of the Local Plan.

#### Impact on the character of the Conservation Area

7.6 As the application site lies outside the designated Scarborough Conservation Area the statutory requirement of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires that 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area' is not relevant. As this requirement is only needed in respect to 'any buildings or other land in a conservation area'.

7.7 Notwithstanding this, the Ferris wheel is sited close to the boundary of the Conservation Area and is visible in views towards and from the Conservation Area, which is a heritage asset, from a variety of directions and vantage points. The development is therefore considered to impact on the setting of the Conservation Area, which is a designated heritage asset. Setting is defined in the NPPF as 'the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of the asset, may affect the ability to appreciate that significance or may be neutral'.

7.8 Policy DEC5 of the Local Plan also confirms that proposals affecting a Conservation Area should preserve or enhance its character and appearance.

7.9 In the absence of a Scarborough Conservation Area Appraisal, the Conservation Officer has made reference to Historic England's guidance notes entitled 'The Setting of Heritage Assets' and 'Temporary Structures in Historic Places'. The latter recognises that 'events in historic places make a vital contribution to the economic sustainability of our heritage. They add to the enjoyment of countless visitors at a huge range of sites, from urban squares to open countryside, as well as generating an important source of income'. However the same guidance also highlights that the appropriateness of temporary structures is dependent upon their individual locations and they need to be 'carefully positioned and designed to avoid potentially disfiguring or damaging sites and landscapes of heritage importance'.

7.10 The wheel, which is a sizeable structure, has an impact on views towards and from the Conservation Area. However, whilst it is visually impressive, the slender sections of the structure means that it does not impede or interfere with these views, and as such viewers close to or at a greater distance from the wheel can clearly appreciate the significance of the Conservation Area which is derived from its dramatic

topography and impressive built heritage, comprising of a range of building types and sizes, constructed in a variety of building materials. Given this, your Officers consider that the wheel, as a temporary structure, does not impact on the significance of the heritage asset and therefore preserves the character and appearance of the Conservation Area.

7.11 That said, your Officers do consider that the permanent placement of the Ferris wheel on the site would be likely to cause considerable harm to the setting of the Scarborough Conservation Area. Your Officers agree with the Conservation Officer's advice in this respect, which states:

"Scarborough's South Bay provides an unrivalled picturesque setting for an urban environment; protected by a medieval castle at one end and dominated by grandiose 19th century architecture to the other. This built and natural environment has proved to be a beautiful and inspirational place for both residents and visitors for centuries, and as such any substantial permanent addition of to the seafront really ought to be of a design and eminence to complement the environment."

7.12 Notwithstanding the above, the Conservation Officer has also advised that it should be noted that Scarborough's Foreshore Road has historically accommodated many bold and flamboyant temporary installations which have attempted to add variety and interest to the resort town. Your Officers consider the temporary Ferris wheel to be similar to the historical temporary installations.

7.13 It is perhaps helpful to note that, in line with the Historic England's guidance on temporary structures, the introduction of this attraction enables members of the public to experience the historic built environment from an alternative and unique perspective, in addition to adding to the economic activity of the seafront.

#### Impact on the setting of Listed Buildings

7.14 In terms of the considerations relating to the planning application, the LPA has a duty under S.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to 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 for development which affects the building or its setting.

7.15 Clearly, in this case the proposal does not have any physical impact on listed buildings in the vicinity, but does affect the setting of a number of them. The nearest listed buildings to the site comprise a terrace of three storey brick built houses, known as Prospect Place. These properties have their main windows on their south east elevations facing towards the wheel. Other listed buildings are in relatively close proximity, including St Thomas Hospital on Foreshore Road and various listed buildings on King Street and St Nicholas Street. The Grand Hotel sits above the site, to the south west, and the wheel does sit within part of its setting; the setting being extensive given the hotel's prominent and commanding position above the South Bay. In addition, the wheel sits within the setting of Scarborough Castle, a scheduled ancient monument, again positioned above the South Bay on an impressive, natural promontory known as the Castle Headland; which also has an extensive setting.

7.16 The impact on the setting of the various listed buildings affected by the wheel is considered to result in less than substantial harm on the Grand Hotel and also Scarborough Castle, as a scheduled ancient monument. This impact is temporary and can be weighed against the public benefits of the proposal, in terms of providing a temporary visitor attraction on Foreshore Road during the season immediately following the demolition works to the Futurist Theatre buildings and the slope modification and stabilisation works to the land behind it. It is envisaged that publicity associated with the new attraction has brought additional visitors to Scarborough, who will have spent money in the wider local economy.

#### Impact on amenity

7.17 A number of comments and concerns have been received from local residents, occupying properties on King Street, Prospect Place and Blands Cliff. Generally the comments point to the fact that the residents consider that temporary siting of the wheel to be acceptable, due to its quiet operation. The lights on the landward facing side of the wheel have been turned off in response to resident's concerns about the impact of these. The main concern is that the wheel does allow for overlooking of residential windows and neighbours are concerned about the intrusion on their privacy.

7.18 The windows of the closest concerned neighbour, at Prospect Place, are some 25m from the wheel, whilst the garden is at least some 20m from the wheel. Generally other residential properties are further away than this, with for instance the properties on King Street being at least 37m away. Whilst the wheel does provide an opportunity for views of certain properties, which residents have not previously experienced, it is considered that the eyes of passengers are likely to focus on the South Bay, the Castle Headland, the sea and longer range views, rather than on nearby properties. In addition, the distance between the properties and the wheel is considered to protect against any harmful impact on amenity.

7.19 The quiet operation of the wheel and the slow pace of its revolution - combined with the operator's agreement to switch off the lights on the landward facing side of the wheel following residents' concerns, means that in amenity terms the wheel does not have such an impact on residential amenity such that the refusal of planning permission is warranted. On balance, given the seafront location and mixed residential and commercial character of the area, the temporary siting of the Ferris wheel, and its quiet operation as an observation wheel, is considered to accord with Policy DEC4 of the Local Plan.

#### Flood Risk

7.20 The issue of flooding of the site by sea water was raised with the operator through pre-application discussions and the agent was advised to discuss matters with Andy Crossley, SBC Coastal and Drainage Engineer. Following advice from Mr Crossley, the applicant has put forward an action plan that would be implemented in the case of a severe event, although it should be noted that there have been only two such events in the last 5 years that have seriously affected Foreshore Road and the seafront.

7.21 The operator has subscribed to the Government's Flood Warning database and will be notified of any upcoming severe weather warnings in advance and has prepared

a brief Action Plan. The operator has advised that although it is unlikely that a severe weather event would hit the seafront without any prior warning or opportunity for advance preparations, careful monitoring of the weather and flood warnings will be undertaken by management on a daily basis. Prior to any flood events, all power supplies will be checked and protected and the operator has advised that should it be necessary, all power connections will be completely disconnected. The Wheel will be completely shut down for the duration of any flood / severe high tide events and will not re-open until it is completely safe to do so. The site will be secured and any loose apparatus / equipment either made secure or removed from the site. After a severe event, all power supplies will be checked for safety and a full inspection of all apparatus will be undertaken

7.22 The Council's Engineers have confirmed that no objection is raised to the development.

## 8.0 PRE-COMMENCEMENT CONDITIONS

8.1 Pre-commencement conditions are not relevant to this case as the development is already in operation.

## POSITIVE & PROACTIVE STATEMENT

The proposed development as submitted is in principle acceptable, as a temporary use of the land and specific safeguards need to be put into place to ensure the wheel is removed after the proposed period of use. The Local Planning Authority acted proactively by attaching planning conditions which can adequately address such matters.

## RECOMMENDATION

**PERMISSION BE GRANTED**, subject to the following condition(s)

- 1 The Ferris wheel and its associated support structure and ancillary buildings and barriers shall be completely removed from the site on or before 15 November 2019.

Reason: To ensure the site is retained clear of temporary obstructions or structures in the interests of the visual amenities of the area and in advance of its redevelopment in accordance with Policy DEC1 of the Scarborough Borough Local Plan.

- 2 The lights on the west facing side of the Ferris wheel shall remain switched off at all times.

Reason: In the interests of the amenities of occupiers of neighbouring residential properties in accordance with Policy DEC4 of the Scarborough Borough Local Plan.

David Walker

**Background Papers:**

Those documents referred to in this report.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT MR M P WHITMORE ON 01723 232475 email Marcus.Whitmore@scarborough.gov.uk



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