

## WINDSOR DEVELOPMENT CONTROL PANEL

18 February 2009

Item: 13

<b>Application No.:</b>	08/03102/FULL
<b>Location:</b>	Alexandra Gardens Barry Avenue Windsor SL4 5JA
<b>Proposal:</b>	Erection of an observation/ferris wheel with associated equipment and facilities for a temporary period from 2nd April 2009 to 1st November 2009 and dismantled and removed from site by 8th November 2009
<b>Applicant:</b>	Mr J Wells - PWR Events Limited
<b>Agent:</b>	Not Applicable
<b>Parish/Ward:</b>	Castle Without Ward

**If you have a question about this report, please contact:** on 01628 796068 or at david.islip@rbwm.gov.uk

### 1. SUMMARY

- 1.1 The application seeks temporary permission to erect a Ferris wheel and associated equipment and facilities in Alexandra Gardens from the 2<sup>nd</sup> April 2009 to the 1<sup>st</sup> November 2009. The wheel would be sited in a slightly different location from previous years, on the paved pathway in the centre of the gardens. The temporary wheel is considered to have an acceptable appearance in the area and would both preserve the character and appearance of the Conservation Area, and the setting of Windsor Castle. No objection is raised to the impact on the amenities of neighbours, on highway safety, nor on flooding in the area.

**It is recommended the Panel grants planning permission with the conditions listed in Section 10 of this report.**

### 2. REASON FOR PANEL DETERMINATION

- The Council's Constitution does not give the Head of Planning delegated powers to determine the application in the way recommended as the Council has a land ownership interest in the site and there are objections to the application; such decisions can only be made by the Panel.

### 3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 Alexandra Gardens is a rectangular area of open space designated as an Important Urban Open Space in the Local Plan. The gardens run in an east/west direction between Goswell Road to the east and Barry Avenue and the railway line to the west. The gardens provide an area of open space sandwiched between Barry Avenue and the River Thames to the north and the coach park/car park to the south. Barry Avenue is lined with mature trees and provides short stay on-street car parking. The gardens were likely to have been laid out in the late nineteenth century and comprise large lawned areas, which are intersected with a number of paved walkways. An area of land in the western half of the gardens has been given over to provide a skate park and an area for mini golf. The proposed wheel would be located on a rectangular strip of land, which is currently a path and grassed area, within the gardens.

### 4. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

06/00705	Erection of a 55 metre high observation/ferris wheel with associated equipment and facilities for a temporary period of 12 weeks.	Permitted 26 May 2006
07/00074	Erection of a 55 metre high observation/ferris wheel with associated equipment and facilities for a temporary period of 16 weeks	Permitted 1 March 2007
07/02201	Variation of condition 1 of approval 07/00074 to allow wheel until 9 November 2007	Permitted 8 October 2007

- 4.1** The application seeks temporary planning permission to erect a 53.25m high Ferris wheel from the 2<sup>nd</sup> April 2009 till the 1<sup>st</sup> November 2009, a longer period than has previously been the case although the wheel is slightly smaller than the 55m high wheel that was sited in Alexandra Gardens during the summers of 2006, 2007 and 2008. It is also proposed to adjust the siting of the wheel from that previously approved to move the wheel further away from the trees along the northern boundary of the Gardens with Barry Avenue, and to site it on the existing pathway in a more central position immediately to the east of the large Oak tree at the eastern end of the Gardens. The Ferris wheel would be located on a rectangular piece of land measuring 45m in length by 20m in width. The site of the wheel would be about 40m back from Goswell Road and between 25 and 30m back from Barry Avenue.
- 4.2** The wheel would have an overall height of 53.25m and a diameter of 50.5m. There would be a total of 42 gondolas, each of which would carry a maximum of eight persons. In addition to the wheel the applicants also propose to offer light refreshments provided from a refreshment marquee (kiosk/tent) measuring 8m x 12m and of the same size and in the same location as provided in the summer of 2007.
- 4.3** The applicant has advised that the wheel is fully transportable and is erected over a 10 day construction period. The structure is fully self-contained and requires no footings, foundations or fixings to the ground. It would operate between the hours of 10am to 10pm Monday to Sunday.

## 5 MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

### Local Area Agreement

- 5.2** The recommendation would contribute to the achievement of these selected priorities of the Council and its partners:

Maintaining a vibrant economy	✓
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More information on these priorities can be found at:

[http://www.rbwm.gov.uk/web/partnerships\\_laa.htm](http://www.rbwm.gov.uk/web/partnerships_laa.htm)

### Berkshire Structure Plan and Royal Borough Local Plan

- 5.3** The main strategic planning considerations applying to the site and the associated policies are:

	Within settlement area	High risk of flooding	Conservation Area	Listed Building	Protected Trees
	✓	✓	✓	✓	✓
Structure Plan	DP5	-	-	-	-
Local Plan	DG1, H10, H11, H14	F1	CA2	LB2	N6

## 6. EXPLANATION OF RECOMMENDATION

- 6.1** The key issues for consideration are:

- i the principle of erecting the wheel and whether it would preserve the character and appearance of the Conservation Area and the setting of nearby Listed Buildings;
- ii the impact on the living conditions of occupiers of nearby properties;

- iii the impact on the area which is liable to flood; and
- iv the adequacy of car parking and the impact on highway safety in the area.

### **The principle of erecting the wheel and its impact upon the character and appearance of the Conservation Area and the setting of the nearby Listed Buildings**

- 6.2 Policy TM4 of the Local Plan encourages purpose built facilities in the town centre subject to their being sympathetic to the other objectives in the plan. One of the objectives of the Council's tourism strategy is to encourage wider visitor interest and movement throughout the Borough area to relieve pressure on the main centres of attraction in Windsor. The applicants state that the event attracted 93,000 customers from July to November last year. Whilst the wheel would be located in an area designated as an Important Urban Open Space, which Policy R1 of the Local Plan seeks to protect, and would be erected for a longer period the Ferris wheel is a temporary use and would not result in the permanent loss of the open space. It also only occupies a small part of the open space and potentially draws more people to use this space. In view of this, no objections are raised to the principle of locating the wheel once again in Alexandra Gardens
- 6.3 The Ferris wheel would reach a height of 53.25m and it will form a prominent feature in the immediate area and when seen from quite a distance. In the immediate area the base of the wheel would be afforded an element of screening when viewed from the north of the river (Eton side) by the presence of tall, mature deciduous trees growing alongside Barry Avenue. Views of the base of the wheel from the coach park and car park to the south would also be screened to some degree by the boundary treatment along the southern boundary of the gardens. However, the wheel would be a clearly and widely visible prominent structure.
- 6.4 In the wider area the wheel is a prominent feature in views of Windsor Castle from Alexandra Gardens and locations to the west. The wheel is also easily seen from the Castle, the Windsor Central railway station, Windsor / Eton Bridge and a number of other viewpoints around the Conservation Area. However, having seen the wheel in situ last year, it is considered that, although the proposed siting of the has been slightly changed, the wheel is situated sufficiently distant from the Castle to be able to read as a clear distinct element with the Castle remaining the more dominant feature. Also, its location to the west of the Castle leaves the more 'royal' views of the Castle across the Park and along the Long Walk completely unaffected. The wheel itself is of a modern design and construction, with a resemblance to the appearance of the London Eye.
- 6.5 The application does not include full details of the lighting of the wheel and there is a discrepancy in the plans with regards to the appearance of the box office / refreshment area. It is therefore again considered necessary to add conditions requiring the submission of these details with respect to lighting of the wheel and appearance of the refreshment kiosk and ticket booths.
- 6.6 Any short-term disadvantages which may arise as a result of the visual prominence of the wheel should be considered against the temporary nature of the proposal and the local economic and tourism benefits that may occur as a result. The wheel attracted 93,000 visitors during the time it was in operation in 2007. Although no evidence has been provided to support the possible economic benefits to the town, it is highly likely that at least some of these visitors may not have otherwise come to the town on that occasion and that some stayed longer in the local area, thus contributing to the town's wider economy and in compliance with the aims of the tourism Policy TM4.
- 6.7 The wheel would be on site for a thirty week period and would leave no lasting impact upon the character and appearance of the area. Accordingly the visual appearance of the structure is considered to be acceptable.
- 6.8 There is a prominent tree located just to the west of the wheel. The proximity of the wheel to the tree means that there is the potential for branch encroachment. It is considered that a condition should be imposed requiring details of the relationship between the wheel and the tree, and requiring a slight adjacent to the location of the wheel if there is found to be encroachment.

## **The impact upon the living conditions of occupiers of nearby properties.**

- 6.9** In terms of residential amenity, the proposed wheel would be around 60m from the closest residential property. The Environmental Protection Officer did not previously consider that it would give rise to an undue detrimental impact upon the occupiers of nearby properties.
- 6.10** Whilst the wheel would be visible to local residents, it is considered that the separation distance, the modern design and its temporary nature would not result in it being so obtrusive as to justify a refusal on this ground.
- 6.11** Due to the separation distance and the height of the capsules on the wheel, any overlooking of residential properties would be at an angle and the properties would be seen as part of the wider panorama of Windsor and Eton that would be visible from the wheel. Any views of residential gardens would be small and insignificant in the wider views afforded by a trip on the wheel. No concerns have been raised from local residents with regards to any disturbance from the wheel. The applicant has suggested operating between 10am and 10pm, i.e. identical hours to those approved in 2008. It is considered that 10am to 10pm will not have an unacceptable impact upon the residential amenities of nearby residents.

## **The impact upon the area which is liable to flood**

- 6.12** The Environment Agency has not been consulted as it declined to comment on the previous applications. Whilst the site is located in an area liable to flood, the application is only for a temporary period of 30 weeks during the summer months, and does not involve the construction of a permanent structure on the land. Accordingly, the number of people or property being subject to flood risk is negligible, and the application is in compliance with Policy F1 of the Local Plan.

## **Highway safety, including car parking**

- 6.13** The Highway Officer raised no objections to the previous applications. Although not consulted on this application, it is again considered necessary to seek clarification of the route that the construction vehicles will take to ensure that the equipment does not affect the flow of traffic in the surrounding area. The vehicles delivering the equipment are large and have the potential to cause significant disruption of not controlled

## **Other Material Considerations**

- 6.14** An issue has been raised on the previous applications that the kiosk would result in competition with local shops. However, the planning system does not exist to protect private business interests or control competition between businesses. It is also considered that the wheel could help to increase both the attraction and dispersion of visitors to areas of the town that they may not otherwise visit, which could increase trade to local businesses bringing an economic benefit.
- 6.15** The profitability or otherwise of the wheel is a matter for the operator, and cannot be used in determining the acceptability of this proposal
- 6.16** There is no evidence that the proposed opening hours have historically caused any concerns or problems. As such there is no reason to object to these hours.

## **7. CONSULTATIONS CARRIED OUT**

### **Comments from interested parties**

84 occupiers were notified directly of the application.

The application was advertised in the Slough and Eton Express on the 22<sup>nd</sup> January 2009. The planning officer posted a statutory notice advertising the application at the site on 22<sup>nd</sup> January 2009.

2 letters were received objecting to the application, summarised as:

Comment		Where in the report this is considered
1.	Object to it being erected so early in the year [2]	Para.s 6.2 – 6.7
2.	Its new position will take up most of the front part of the gardens [2]	Para.s 6.2 – 6.7
3.	The café interferes with the trade of nearby cafes, we need the landlords to support their businesses when times get hard, not put them out of business [2]	Para. 6.13
4.	The wheel will not be profitable in the months of April, May, June, October and November and appears to just be cheaply stored on the land. [2]	Para. 6.14
5.	Its good in the summer but not other months [1]	Para. 6.14
6.	Residents will lose 8 months of valuable park space [1]	Para.s 6.2 – 6.7
7.	The opening hours until 10pm seem unnecessary [1]	Para.s 6.10 and 6.15

### Other consultees and organisations

Consultee	Comment	Where in the report this is considered
Environmental Protection Unit	Recommends informatives relating to prior consent under Section 61 of the Control of Pollution Act 1974 and the noise control provisions of Section 60 of the Act, and the permitted hours of working.	In conditions, Section 10

## 9. APPENDICES TO THIS REPORT

- Appendix A - Site location plan
- Appendix B - Layout plan
- Appendix C - Elevation

## 10. CONDITIONS RECOMMENDED FOR INCLUSION IF PERMISSION IS GRANTED

- 1 The development shall not be commenced until the 2nd April June 2009 and shall be discontinued, all associated structures removed in their totality from the site and the land restored to its previous condition on or before 1st November 2009, in accordance with a scheme, including a programme of implementation that shall have been submitted to, and approved in writing by the Local Planning Authority prior to the commencement of development.  
Reason: The proposal does not constitute a form of development that the Local Planning Authority would normally permit. However, in view of the particular circumstances of this application temporary planning permission is granted. Relevant Saved Policies - Local Plan CA2, LB2, F1, DG1.
- 2 The use shall only operate between the hours of 10am and 10pm.  
Reason: To protect the amenities of adjoining occupiers. Relevant Saved Policies - Local Plan NAP3 - Structure Plan EN5.
- 3 Notwithstanding the submitted information prior to the commencement of development details of any lighting of the wheel including the location for the lights, any associated kiosks and any fencing around the wheel shall first be submitted to, and approved in writing by, the Local Planning Authority. The development shall be undertaken in accordance with the approved details.  
Reason: In the interests of the visual amenity of the area. Relevant Saved Policies, Local Plan CA2, LB2, DG1.

- 4 Prior to any equipment, materials, site huts being brought onto site or commencement of any works in connection with the planning permission, details of the working space required for the construction of the wheel shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be undertaken in accordance with the approved details  
Reason: To protect trees which contribute to the visual amenities of the area. Relevant Saved Policies - Local Plan DG1, N6.
- 5 The development shall be construction in accordance with the details set out in the Windsor Wheel Installation Construction Statement submitted with the application.  
Reason: To protect trees which contribute to the visual amenities of the area an in the interests of highway safety and convenience.
- 6 Prior to the commencement of the development a plan demonstrating that the wheel will not encroach into the crown of the Oak tree to the west of the wheel shall be submitted to, and approved in writing by, the Local Planning Authority. If there is any encroachment a plan showing a revised siting of the wheel shall be submitted to, and approved in writing by, the Local Planning Authority and the wheel shall be located in accordance with the approved plan.  
Reason: In the interests of protecting the tree. Relevant Policies - Local Plan DG1, N6.

**Informative(s)**

- 1 The applicant is requested to apply to the Local Authority Environmental Health Unit for a Prior Consent Approval under Section 61 of the Control of Pollution Act 1974, and is advised of the noise control provisions of Section 60 of that Act. The applicant's attention is also drawn to the British Standard Code of Practice BS5228 1984 'Noise Control on Construction and Open Sites'.
- 2 The applicant should be aware the permitted hours of working in the Authority are as follows:Monday - Friday 08.00-18.00Saturday 08.00-13.00No working on Sundays or Bank Holidays
- 3 The applicant is advised of the need to provide for facilities for the disposal of litter.