

DELEGATED DECISION REPORT

SMD/2022/0032
Valid 21/01/2022

ALTON TOWERS FARLEY
LANE
FARLEY

**CERTIFICATE OF LAWFULLNESS
PROPOSED- APPLICATION
SEEKS TO CONFIRM THE
LAWFULNESS OF MAINTENANCE
WORKS TO THE 'NEMESIS' RIDE,
AN EXISTING ROLLER COASTER
AT ALTON TOWERS RESORT.**

**(CERTIFICATE OF LAWFULNESS
- PROPOSED)**

MAIN ISSUES

This is a Certificate of Lawful development which seeks the Councils formal confirmation that the development proposed, described as maintenance works to the Nemesis ride at Alton Towers does not require planning permission

DESCRIPTION OF SITE

The site is part of the established Alton Towers theme park. The Nemesis ride was granted consent under SM92 – 0052. It was been a popular roller coaster at the Park. According to the application it opened to the public in 1994.

The description of development reads as follows:-

Proposed Construction of new coaster ride with associated new landscaping and land forming

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Staffordshire Moorlands Local Plan (adopted September 2020)

National Planning Policy Framework

CONSULTATIONS

Town / Parish Comments None

OFFICER COMMENTS

Definition of development

1.1 Section 55 (1) of the 1990 Act defines development as ‘.. *the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land*’.

1.2 Section 1a says that for the purposes of the Act, ‘building operations’ include:-

- (a) demolition of buildings;
- (b) rebuilding;
- (c) structural alterations of or additions to buildings; and
- (d) other operations normally undertaken by a person carrying on business as a builder.

1.3 Building is defined in Section 336 (1) as

"..any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building.."

1.4 I agree with the applicant that applying the generally applied tests of size, permanence and level of physical attachment ((first ruled in Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co 1949 and used in many subsequent cases since, reference DCP online) that the Nemesis ride is a building; it is not chattel.

1.5 Having established that the Nemesis ride is a building, it is then necessary to establish whether the works to be carried out as detailed in the application amount to repairs/maintenance or whether the extent of the works amount to demolition and re build/ re construction. The applicant considers them to amount to repairs/maintenance.

1.6 On the basis of information provided with the application and the further information sought from the applicant the following facts can be established:-

To be replaced/repaired

1. 573m of the total 741m track replaced i.e. 73% of the track
2. 89 of the 117 columns supporting the track replaced i.e. 76% of the columns
3. Removal and replacement/regrouting of the 636 of the 832 bolts i.e 76% replaced
4. Localised repairs/maintenance to theming and buildings
5. Strengthening of 41 of the 117 column bases

To be retained

1. 112 rock anchors which fix the structure to the rock (ground). They are said to be in some of the foundations below the columns. These are said to be steel bars, 9-10 metres in length. There are 43 other steel bars also supporting the columns and all to be retained
2. Station building
3. Maintenance building and plant room
4. Shop and photography building
5. The maintenance and emergency access steps alongside the ride lift hill and track and columns along the ride lift hill will be retained
6. The applicant also refers to retaining walls, tunnels, queue line, pathways and fencing

1.7 Whilst three quarter of the track and supporting columns are to be replaced, 25% of the track and supporting columns is retained together with all other integral elements of the development listed above. Some repairs/maintenance to theming and buildings is also proposed but this is localised and small scale. As a matter of fact and degree therefore and on balance, having regard to case law and taking the development as a whole, I am of the opinion that sufficient elements of the track and other elements of the development would remain in place so to conclude that the works do not amount to total demolition and re build and can reasonably be described as works of repair and maintenance.

1.8 Section 55 (2) of the Act lists those operations or uses of land shall not be taken for the purposes of this Act to involve development of the land. Of relevance to this application is 2a) as follows

'2(a)the carrying out for the maintenance, improvement or other alteration of any building of works which—

(i)affect only the interior of the building, or

(ii)do not materially affect the external appearance of the building...,'

1.9 It is explained in the application that the works are required to ensure that safety standards are maintained. It says that maintenance is an important part of any amusement parks ongoing requirements and that rides are regularly reviewed and repaired to make sure they are safe for guests and that from time to more extensive maintenance is undertaken.

1.10 The replacement track and columns would follow the approved layout and design and would have the same appearance externally. It is pointed out that an additional benefit is that the coaster track will be sand filled, which will improve the running of the rollercoaster as it will reduce noise levels to the benefit of the site and surroundings. The current track does not have this benefit as the method was not widely used when the Nemesis ride was first constructed. It is confirmed that sand filling the track will not materially change the external appearance of the rollercoaster.

1.11 Having concluded that the works are works of maintenance and repair it is further concluded that such works do not materially affect the external appearance of the building, taking the ride as a whole, because it will look exactly the same on completion of the works. In accordance with Section 55 2 (a) (ii) therefore the works do not involve development

OFFICER RECOMMENDATION : Approve

Case Officer: Jane Curley

Recommendation Date: 22nd March 2022

X 

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council