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| Item No. 7.4 | Classification: OPEN | Date: 30 April 2014 | Meeting Name: Planning Sub-Committee A |
| Report title: | <p>Development Management planning application: Council's own development Application 14/AP/0901 for: Council's Own Development - Reg. 3</p> <p>Address: DULWICH PARK, COLLEGE ROAD, LONDON SE21</p> <p>Proposal: Installation of 'Three Perpetual Chords' a series of three cast iron sculptures by artist Conrad Shawcross. The sculptures will be sequenced within the park on the West and East lawns leading visitors through the park.</p> | | |
| Ward(s) or groups affected: | Village | | |
| From: | Head of Development Management | | |
| Application Start Date 21/03/2014 | | Application Expiry Date 16/05/2014 | |
| Earliest Decision Date 26/04/2014 | | | |

RECOMMENDATION

- 1 a) That members consider the application as it represents development on Metropolitan Open Land (MOL);
- b) That members consider whether the proposed development meets the exception test as set out in paragraph 89 of section 9 NPPF;
- c) In the event that the exception test is met, that members grant planning permission subject to conditions.

BACKGROUND INFORMATION

Site location and description

- 2 Dulwich Park is a Grade II listed park. The 29 hectare area of land was transferred into public ownership in 1885 for the purpose of adapting the land for public park. The park was opened to the public soon after, based on the plans developed by JJ Sexby.
- 3 The park was refurbished in 2006 and provides a range of facilities, including sports facilities, cycle hire, various gardens, a boating lake and a cafe. There are a number of listed buildings to the west and southeast of the site, but the works are not within the setting of any of these listed buildings. The park is subject to the following designations:
 - Air Quality Management Area
 - Archaeological Priority Zone
 - Dulwich Wood conservation area
 - Metropolitan Open Land
 - Green Chain Park

- Site of Importance of Nature Conservation (SINC)
- Suburban Density Zone

Details of the proposal

- 4 The proposal details the installation of 'three perpetual chords' a series of three cast iron sculptures by artist Conrad Shawcross. Conrad is a renowned artist that builds machines with the intention of exploring the laws of science, and demonstrating the abstract nature of scientific thought in a practical manifestation and has had notable installations at the Satchi gallery in London and the Turner contemporary in Margate.
- 5 The proposed sculptures will be sequenced within the park on the West and East lawns leading visitors through the park. The sculptures will be located within the West Lawns area of the park, along the westbound part of the 'horse ride' and are located to the west of the bowling green.
- 6 The sculptures will vary in length from 2.478m to 5m however remain at a consistent height of 1.812m and they will be 2.5m to 5m in width. The material of the sculptures will be made from spheroidal graphite case iron which is durable, cost effective and has a long wear. The metal is low maintenance and does not have a high value, making it unattractive to metal thieves.

Planning history

- 7 04-CO-0127 - Planning permission was granted for the construction of a new 61m long timber boardwalk and viewing platform at the eastern end of the lake and the relocation of 4 tennis courts from the lower lawn of west lawns to the upper lawn with new surfacing, fencing and nets - 25/04/2005

04-CO-0133 - Planning permission was granted for the construction of a new boating kiosk within the boating lake, including drawbridge - 10/01/2005.

04-CO-0137 - Planning permission was granted for the conversion of existing building (used as a rangers base) to provide four changing rooms together with external alterations.

04-CO-0138 - Planning permission was granted for the construction of a single storey extension and conversion of existing cricket pavilion with changing room facilities to provide park staff and community facility - 08/02/2005

04-AP-2086 Listed building consent was granted for "conservation works for each of the four historic entrance gates, screens and stone piers" - 02/03/2005

13-AP-4547: Request for a screening opinion in relation to Dulwich Park, for the Herne Hill and Dulwich flood alleviation scheme. The screening request was undertaken on the cumulative impacts from proposals for Belair Park and the Southwark community sports trust grounds. It was judged that these proposals as a whole do not constitute an Environmental Impact Assessment (EIA) development.

13/AP/4517 - Planning permission was granted for the "construction of two linear flood defence bunds' complemented by two below ground geocellular water storage tanks to temporarily contain surface water in Dulwich Park, as part of a wider flood alleviation scheme (including works at Belair Park and the Southwark community sports trust grounds) - 25th March 2014.

14-AP-0067: Application for works to trees in a conservation area were considered not to require intervention on 24 February 2014, the works were described as:

Tree No D66 - Fraxinus excelsior; Tree No D274 - Fraxinus excelsior & Tree No D278 - Fraxinus excelsior to be felled because they are within area of flood defence works where ground levels are changing; replacement trees.

Planning history of adjoining sites

- 8 None relevant.

KEY ISSUES FOR CONSIDERATION

Summary of main issues

- 9 The main issues to be considered in respect of this application are:
- a) The principle of the development and its impact on Metropolitan Open Land.
 - b) Amenity of the park for users.
 - c) The design of the sculptures and their impact of the development on the Grade II listed Dulwich Park.
 - d) The impact of the development on the Dulwich Wood conservation area.
 - e) Environmental impacts

Planning policy

National Planning Policy Framework (NPPF)

- 10 This application should be considered against the NPPF as a whole, however the following sections are considered to be particularly relevant:

8 Promoting healthy communities
9 Protecting Green Belt land
11 Conserving and enhancing the natural environment
12 Conserving and enhancing the historic environment

London Plan July 2011 consolidated with revised early minor alterations October 2013

- 11 Policy 7.4 Local character
Policy 7.5 Public realm
Policy 7.6 Architecture
Policy 7.8 Heritage assets and archaeology
Policy 7.17 Metropolitan open land
Policy 7.19 Biodiversity and access to nature
Policy 7.21 Trees and woodlands

Core Strategy 2011

- 13 Strategic Policy 11 - Open spaces and wildlife
Strategic Policy 12 - Design and conservation
Strategic Policy 13 - High environmental standards

Southwark Plan 2007 (July) - saved policies

- 14 The council's cabinet on 19 March 2013, as required by paragraphs 215 of the NPPF, considered the issue of compliance of Southwark planning policy with the NPPF. All policies and proposals were reviewed and the council satisfied itself that the policies and proposals in use were in conformity with the NPPF. The resolution was that with the exception of Policy 1.8 (location of retail outside town centres) in the Southwark

plan all Southwark plan policies are saved. Therefore due weight should be given to relevant policies in existing plans in accordance to their degree of consistency with the NPPF. The following saved policies are relevant to this application:

Saved Policy 3.1 Environmental effects
Saved Policy 3.2 Protection of amenity
Saved Policy 3.11 Efficient use of land
Saved Policy 3.12 Quality in design
Saved Policy 3.15 Conservation of the historic environment
Saved Policy 3.16 Conservation areas
Saved Policy 3.18 Setting of listed buildings, conservation areas and world heritage
Saved Policy 3.25 Metropolitan open land
Saved Policy 3.28 Biodiversity

Principle of development

- 15 The application site is situated within MOL and Paragraph 7.56 of the London Plan (consolidated with revised early minor alterations in October 2013) states that paragraphs 79-92 of section 9 NPPF on green belts apply equally to MOL. Paragraph 88 of the NPPF advises that in considering any planning application (i.e. a loss of unbuilt land), local planning authorities should ensure that substantial weight is given to any harm to the green belt. 'Very special circumstances' will not exist unless the potential harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Paragraph 89 describes the exceptions for buildings and facilities within the green belt (and MOL). The sculpture is considered as an appropriate facility for outdoor recreational purposes and therefore meets the exception criteria as outlined in paragraph 89 of section 9 in the NPPF.
- 16 Policy 7.17 Metropolitan Open Land of the London Plan, as amended, states that the strongest possible protection should be given to London's MOL, the same level of protection as is given to Green Belt, and further that inappropriate development should be refused except in very special circumstances. The supporting text states that appropriate development should be limited to small scale structures to support open space uses and minimise any adverse impact on the openness of MOL.
- 17 The iron sculptures would be relatively modest in scale at a maximum of 5m in length and 5m in width and height of 1.814m and as these designs are open, would not affect the openness of the park. They would be limited in height, will have some use to support children's play and interaction of all users within the park. It will replace the Barbara Hepworth Sculpture 'Two Forms Divided Circle' which was stolen back in 2012. The locations in which the structures will sit are not 100 per cent specific as they could be subject to change, however each sculpture will be within the circles identified on the site plans. Further details could be secured by way of a condition.
- 18 Strategic Policy 11 Open spaces and wildlife of the core strategy commits the council to protect open spaces against inappropriate development. It refers to Southwark Plan policies 3.25-3.27 for further information on how such spaces would be protected.
- 19 Saved policy 3.25 of the Southwark Plan states that there is a general presumption against development on MOL and that planning permission will only be permitted for appropriate development for a number of purposes such as essential facilities for outdoor sport and recreation
 - i. Agriculture and forestry; or
 - ii. Essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of MOL and which

- do not conflict with the purposes of including land within MOL; or
- iii. Extension of or alteration to an existing dwelling, providing that it does not result in disproportionate additions over and above the size of the original building; or
- iv. Replacement of an existing dwelling, providing that the new dwelling is not materially larger than the dwelling that it replaces.

- 20 As referred to above, the proposals would provide for outdoor recreation and would preserve the openness of the park, replacing the Barbara Hepworth piece of artwork previously situated within the park. They would preserve the openness of the park and would substantially enhance the visual amenity of the park. The proposal is therefore considered to be development meeting the exception test and the principle of the development acceptable in accordance with the NPPF, London Plan 2011, Core Strategy 2011 and the saved Southwark Plan 2007.

Environmental impact assessment

- 21 Not required for an application of this nature.

Impact of proposed development on amenity of adjoining occupiers and surrounding area

Visual amenity

- 22 The proposed sculptures have been subject to public exhibition which allowed the public say over what would replace the stolen Hepworth sculpture within the park. The proposed sculptures will be situated within the West Lawns which consist of large open areas with few trees, used for sporting activities with football pitches and multi-use games areas and informal recreation.
- 23 The proposal consists of three separate sculptures spread over three different locations which will be located close to the Court Lane entrance to the park. They will be along the westbound part of the 'horse ride' and are located to the west of the bowling green. They will be situated away from the footpath within the lawns themselves.
- 24 They will be situated close to the paths and entrance from Court Lane and whilst large, would preserve the openness of this area as the sculptures ensure that views across the park will be unaffected within the park and thus would not be adversely affect the sight-lines within the area.
- 25 The sculptures are designed in way that their use is encouraged would provide an opportunity for enjoyment and activity within an area of the park which at present has limited visual interest. They will provide a significant level of visual interest and in the absence of the stolen Barbara Hepworth will allow for the reinstating of an important artistic piece within the park, which is greatly supported. As such it is considered that the proposed development would accord with saved policy 3.2 of the Southwark Plan and thus is supported in this regard.

Impact of adjoining and nearby uses on occupiers and users of proposed development

- 26 The surrounding area will remain as an open space and the sculptures will allow for the area to be maintained as a public open space, introducing a positive design feature within the park to increase engagement with the users of the park.

Transport issues

- 27 The proposed sculpture will have no impact on traffic or transport. The sculptures will

not be located in such a way that it impedes pedestrian access through the Thames walkway and the sculptures will be fully accessible to all members of the public.

Design Issues and the Impact on character and setting of a listed building and/or conservation area

- 28 The proposal follows on from the recent theft of an important Barbara Hepworth sculpture which was stolen from the park. Dulwich Park is a Grade II registered park and garden and as such is considered a designated heritage asset in its own right.
- 29 Paragraph 129 of the NPPF states that: local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage assets conservation and any aspect of the proposal.
- 30 The significance of the park lies in its generous open setting, picturesque circuitous paths and broad lawned areas arranged between groups of trees and around the central duck pond. The park has a long tradition of sculpture which the original Hepworth responded to. It was discretely located within a flower bed and was essentially a piece that could be appreciated at arms length.
- 31 The current proposal is to provide a new artistic piece made up of three elements designed in the round and proposed to be located within the landscape. They have been conceived as circular wave-like shapes which will sit on the lawned areas in a sequence in the western area of the park. They are intended to be 'discovered' and appreciated as the artist claims that people will be welcome to notes that they can be climbed onto and through them.
- 32 The chosen design is the result of an artistic competition which involved local artists and local stakeholders. Whilst it is a permanent installation in this important park it is considered that the frame-like appearance of these elements located at grade and not elevated on a plinth will not affect the viewer's appreciation of the park. Indeed the inclusion of sculpture is entirely consistent with the park and a traditional feature of this park. Its impact on the park and its setting can only be described as less than substantial.
- 33 Paragraph 134 of the NPPF states: "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use." This proposal is consistent with the requirements of the NPPF. The substantial public benefits of the continued presence of art in and part of the landscape, provided it outweighs the harm caused to the openness or the picturesque character of this important historic landscape is welcomed. It is a elegant sensitive piece that responds well to its landscaped setting and invites the viewer to interact with it, to appreciate it and enjoy it.
- 34 Accordingly the proposal will conserve and enhance the significance and setting of this important historic landscape and comply with part 12 of the NPPF (2012), strategic policy SP12 of the Core Strategy (2011) and saved policy 3.17 of the Southwark Plan (2007).

Archaeology

- 35 The proposal is located within an archaeological priority zone and as such could have

some potential impacts in this regard. Having consulted the archaeology office, given the nature of the works involving minor excavation, no concerns are raised in this instance.

Impact on trees

- 36 The areas proposed for the three sculptures will be within an open area of grass and as such will not affect and trees or planting.

Planning obligations (S.106 undertaking or agreement)

- 37 Not required for an application of this nature.

Sustainable development implications

- 38 No expected as a result of the proposed development.

Other matters

Community Infrastructure Levy (CIL)

- 39 S143 of the Localism Act 2011 states that any financial sum that an authority has received, will, or could receive in the payment of CIL as a material 'local financial consideration' in planning decisions. The requirement for Mayoral CIL is a material consideration. However, the weight to be attached to a local finance consideration remains a matter for the decision-maker. Mayoral CIL is to be used for strategic transport improvements in London, primarily Crossrail. There is no additional floor space being created, therefore this application is not CIL liable.

Potential crime concerns

- 40 The sculptures are designed in such a way that views can be maintained through the structures, which will limit any potential for people to hide behind them, thus limiting the potential of people jumping out on users of the park.
- 41 In regards to the safety of the sculptures themselves, the spheroidal graphite case iron material is of a very low value, making it unattractive to metal thieves and thus would limit its attractiveness to thieves. Further, the sculptures will be dug firmly into the ground making them very difficult to remove without very heavy machinery. The insurance company who the applicants seek to insure the structure with have confirmed that they do not require any additional CCTV within the site as the low value of the scrap material would significantly reduce any chance of the sculptures being stolen.

Conclusion on planning issues

- 42 The proposal for three sculptures within Dulwich Park would maintain the openness of this important Grade II listed park as is vital for development within any MOL. They would introduce an interesting artistic piece back into the park that will result in a positive impact on the visual amenity of the park. As such, it is considered that the proposed development would accord with the relevant Southwark Plan, Core Strategy, London Plan and NPPF policies. It is recommended that planning permission is granted.

Community impact statement

- 43 In line with the council's community impact statement the impact of this application has been assessed as part of the application process with regard to local people in respect of their age, disability, faith/religion, gender, race and ethnicity and sexual

orientation. Consultation with the community has been undertaken as part of the application process.

a) The impact on local people is set out above.

b) The issues relevant to particular communities/groups likely to be affected by the proposal have been identified above.

c) The likely adverse or less good implications for any particular communities/groups have been also been discussed above.

Consultations

44 Details of consultation and any re-consultation undertaken in respect of this application are set out in Appendix 1.

Consultation replies

45 Details of consultation responses received are set out in Appendix 2.

Summary of consultation responses

46 At the time of writing, no neighbour responses had been received, however the consultation period is still running. Any responses received prior to the meeting will be included in an addendum to this report.

English Heritage responded, however did not raise any objections to the proposal.

Human rights implications

47 This planning application engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.

48 This application has the legitimate aim of providing pieces of artwork to replace a previous sculpture which was stolen in 2011. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

49 There are none.

BACKGROUND DOCUMENTS

| Background Papers | Held At | Contact |
|--|--|--|
| Site history file: TP/2082-Z Application file: 14/AP/0901 Southwark Local Development Framework and Development Plan Documents | Chief executive's department 160 Tooley Street London SE1 2QH | Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.gov.uk Case officer telephone: 020 7525 5416 Council website: www.southwark.gov.uk |

APPENDICES

| No. | Title |
|------------|---------------------------------|
| Appendix 1 | Consultation undertaken |
| Appendix 2 | Consultation responses received |
| Appendix 3 | Recommendation |

AUDIT TRAIL

| | | |
|---|---|-------------------|
| Lead Officer | Gary Rice, Head of Development Management | |
| Report Author | Alex Cameron, Senior Planning Officer | |
| Version | Final | |
| Dated | 10 April 2014 | |
| Key Decision | Yes | |
| CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER | | |
| Officer Title | Comments Sought | Comments included |
| Strategic Director, Finance and Corporate Services | No | No |
| Strategic Director, Environment and Leisure | No | No |
| Strategic Director, Housing and Community Services | No | No |
| Director of Regeneration | No | No |
| Cabinet Member | No | No |
| Date final report sent to Constitutional Team | 16 April 2014 | |

APPENDIX 1

Consultation undertaken

Site notice date: 28/03/2014 - Four notices placed, one at each entrance.

Press notice date: 03/04/2014

Case officer site visit date: 28/03/2014

Neighbour consultation letters sent: No letters were sent due to the significant distance from the proposal site to the closest residential uses. Letters were sent to local groups on 27/03/2014 and these are listed below.

Internal services consulted:

Design and Conservation team.
Archaeology Officer.

Statutory and non-statutory organisations consulted:

Garden History Society
English Heritage

Neighbours and local groups consulted:

Friends of Dulwich Park - Cypress Tree House Dulwich Common London SE21
Dulwich Society - 25 Kingsthorpe Road London SE26 4PG
Dulwich Estate - The Old College Gallery Road Dulwich London SE21 7AE

Re-consultation:

N/A.

APPENDIX 2

Consultation responses received

Internal services

Design and Conservation team - See main body of the report.

Archaeology Officer. - No objections

Statutory and non-statutory organisations

Garden History Society - None received.

English Heritage - No objections.

Neighbours and local groups

None received on the date of writing, an addendum will be prepared prior to the committee meeting to take into account any late representations received.