

Item No. 7.2	Classification: OPEN	Date: 12 May 2015	Meeting Name: Planning Sub-Committee A
Report title:	Development Management planning application: Council's own development Application 14/AP/0558 for: Council's Own Development - Reg. 3 Address: THE LAKE, SOUTHWARK PARK, GOMM ROAD, LONDON SE16 Proposal: Installation of a 2.74m high bronze 'Family of Dolphins' sculpture and integral fountain in Southwark Park Lake.		
Ward(s) or groups affected:	Rotherhithe		
From:	Head of Development Management		
Application Start Date 14/01/2015		Application Expiry Date 11/03/2015	
Earliest Decision Date 25/04/2015		Target Decision Date 19/05/2015	

RECOMMENDATION

1. That the application is determined by members as it represents development affecting Metropolitan Open Land (MOL); that members consider whether the development meets the exception tests for small scale development within MOL; and if satisfied that the relevant tests are met, grant planning permission subject to conditions.

BACKGROUND INFORMATION

Site location and description

2. Southwark Park is a grade II registered park and garden and was one of the earliest parks opened by the Metropolitan Board of Works in 1869. It includes London's first public memorial to a working class person, Mr Jabez West, who was a member of the local Temperance Society. A major refurbishment was undertaken in 2001 with funding from the Heritage Lottery Fund which included the installation of a bandstand. The site is not within a conservation area or within the vicinity of any other listed buildings or structures. The site is covered by the following planning designations:

- Site of nature conservation importance
- Air quality management area
- Metropolitan Open Land
- Canada Water Action Plan
- Grade II registered park and garden
- Flood risk zone

Details of proposal

3. The proposal is for the installation of a 'Family of Dolphins' sculpture and integral fountain within Southwark Park Lake. The sculpture is by the artist David Backhouse.

It is in bronze and is 2.74m high.

4. The work formerly stood within an ornamental pool within Surrey Quays Shopping Centre. The dolphin theme was arrived at as the shopping centre had a maritime theme; it has no other known direct correlation with the area. It has now been kindly gifted to Southwark Council.
5. Security is a significant determining factor behind the proposed location within Southwark Park lake, particularly given the spate of thefts of public art in Rotherhithe over the last few years (including the Alfred Salter statue, the Nature Girls and some of the farmyard animals on the Thames Path). Its location within the park where there is plenty of public activity at all times has been aimed at benefiting from a decent level of natural surveillance and its position within the lake in particular makes sense from the point of view of its intended function as a working fountain but also is considered to be a location sufficiently difficult to get to which, it is hoped will provide an effective deterrent to thieves.
6. The proposed location within Southwark Park lake has been chosen through a public consultation exercise with the local community whereby people were invited to suggest a suitable location within the Rotherhithe area for it to be re-installed. There were approximately 80 responses and the many suggestions were narrowed down to 3 possible options (Southwark Park lake, Globe Pond, Russia Dock Woodlands and Lavender Pond Nature Park and Reserve, Lavender Road).

Planning history

7. There are a number of planning applications for works in the park but none in the immediate vicinity of the site and no recent application in the wider vicinity of relevance to this application.

Planning history of adjoining sites

8. None of relevance to this application.

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) The impact of the development on the heritage significance of Southwark Park as a Grade II listed park.
 - c) The impact of the development on the amenity of local residents
 - d) The impact of the development on park users
 - e) Environmental impacts: biodiversity, flood risk, trees, etc.

Relevant planning policy

10. This scheme should be considered against the development plan as a whole, however the following NPPF sections and development plan policies are considered to be particularly relevant:

National Planning Policy Framework (Published 27 March 2012)

Section 7: Requiring good design

Section 11: Conserving and enhancing the natural environment

Section 12: Conserving and enhancing the historic environment

The London Plan (Adopted 22 July 2011 – Consolidation with alterations adopted on 10 March 2015)

Policy 7.4 Local character

Policy 7.5 Public realm

Policy 7.6 Architecture

Policy 7.8 Heritage assets and archaeology

Policy 7.15 Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes

Policy 7.17 Metropolitan open land

Policy 7.19 Biodiversity and access to nature

Southwark Core Strategy (Adopted 6 April 2011)

Strategic Policy 11 - Open Spaces and Wildlife

Strategic Policy 12 - Design and Conservation

Strategic Policy 13 - High Environmental Standards

Southwark Plan (Adopted 28 July 2007 - Saved Policies)

As required by paragraph 215 of the National Planning Policy Framework, the council's cabinet on 19 March 2013, considered the issue of the requirement for Southwark planning policy to comply the Framework. All policies and proposals were reviewed and the Council satisfied itself that the policies and proposals in use were in conformity with the Framework. The resolution was that with the exception of Southwark Plan policy 1.8 (Location of retail outside town centres), all Southwark Plan policies are saved. As such, due weight should be given to relevant policies in existing plans in accordance to their degree of consistency with the Framework. The following saved policies are relevant to this application:

Saved Policy 3.1 Environmental effects

Saved Policy 3.2 Protection of Amenity

Saved Policy 3.12 Quality in Design

Saved Policy 3.15 Conservation of the Historic Environment

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

The principle of the development and its impact on Metropolitan Open Land

11. Southwark Park is afforded a significant degree of protection in planning terms as a result of its designation as Metropolitan Open Land (MOL).
12. Paragraphs 79-92 of the Framework on green belts apply equally to MOL. Paragraph 89 of the Framework states that the construction of new buildings should be regarded as inappropriate on green belt apart from certain exceptions.
13. In addition, there are broadly similar, overlapping policies in the London Plan (2015), the Southwark Core Strategy (2011) and the Southwark Plan (2007) which strongly resist the building of inappropriate developments on MOL.
14. Policy 7.17 (Metropolitan Open Land) of the London Plan (2015) states,

'The strongest protection should be given to London's Metropolitan Open Land and inappropriate development refused, except in very special circumstances, giving the

same level of protection as in the Green Belt. Essential ancillary facilities for appropriate uses will only be acceptable where they maintain the openness of MOL.'

15. The supporting text to policy 7.17 of the London Plan (2015) provides the following useful definition of appropriate development. It states that appropriate development should be limited to small scale structures to support outdoor open space uses and minimise any adverse impact on the openness of MOL.
16. Strategic policy 11 (Open spaces and wildlife) of the Southwark Core Strategy (2011) advises that,

'The council's aim is to protect large spaces of importance to all of London (Metropolitan Open Land) as well as smaller spaces of more borough-wide and local importance (Borough Open Land and Other Open Spaces). It advises that MOL has the highest level of protection and these spaces must be kept open in nature with development only in exceptional cases.'
17. Saved policy 3.25 of the Southwark Unitary Development Plan (2007) states that,

'Planning permission will only be granted for 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.'
18. However, the proposal needs to be placed within its context. It is not a building, rather a piece of public art on a very modest scale which is intended to add to the park's visual interest and which, it is considered, would have a negligible impact on its openness. As such, while it still represents development of a sort within the MOL, officers are satisfied that it would have no adverse impact on the open character of the park / MOL.
19. The principle of this development is therefore considered to comply with the relevant policies on MOL in the National Planning Policy Framework and the Development Plan for the borough, consisting of the London Plan (2015), the Southwark Core Strategy (2011) and the saved Southwark Plan (2007).

The impact of the development on the heritage significance of Southwark Park as a Grade II listed park

20. The historic significance of the park lies in its layout and historic features such as the several entrance gates; the drinking fountain which is the memorial to Jabez West; the Ada Salter Gardens and the lake.
21. Whilst the sculpture/fountain is not of any particular relevance to the history of the area (apart from its general maritime theme) it is inoffensive, celebrating the natural world and would therefore not be visually jarring set, as it would be, within this ornamental park lake.
22. Its weathered bronze finish and modest scale would also ensure that it blends in with the natural colours found in the park and will not be visually obtrusive.

The impact of the development on the amenity of local residents

23. None envisaged.

The impact of the development on park users

24. It is considered that the sculpture/fountain would enhance users experience of the park, providing a point of visual interest for adults and children alike. If the water fountain can be made to work (there is currently some doubt about this), it would also improve and enhance the acoustic environment in the park (which London Plan policy 7.15 encourages), important for the well-being of all and particularly beneficial for seeing-impaired persons. However, officers consider that the lack of a working fountain would not be sufficient reason to refuse the application as the sculpture itself would still be considered an enhancement to the park without it.

The impact on biodiversity and flood risk

25. The ecology officer has welcomed the proposal and has noted that the fountain (if made to work) would help to aerate the water in the lake and so benefit the wildlife that live within it. Concerns about the potential for the installation works to disturb nesting birds and waterfowl would be addressed by imposing a condition to require the installation of the sculpture to only take place outside of the bird nesting season (1 September – 1 March). It is considered that there is no impact arising in terms of flood risk.

Impact on trees

26. None.

Planning obligations (S.106 undertaking or agreement) and Community Infrastructure Levy (CIL)

27. Planning obligations are sought to mitigate specified negative impacts of development which is in other respects acceptable. As there are no negative impacts to be mitigated and given the small scale nature of the proposal, there is no requirement to secure any planning obligations. The works themselves would provide an enhancement to a community facility and result in benefits for the local area and the wider community.
28. There is no proposed change of use or any increase in floorspace. As such, the scheme would not attract a payment under either the Mayoral CIL or the Southwark CIL.

Conclusion on planning issues

29. The proposal would not significantly affect the openness of Metropolitan Open Land, would not adversely affect the park's heritage significance, the amenity of local residents or local biodiversity. It is considered that it would be a positive addition to the park that would visually and aurally enhance the enjoyment of the park for all users. The application is therefore recommended that planning permission is granted subject to condition.

Community impact statement

30. 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. No adverse impact on any group with the protected characteristics identified above is expected.

Consultation

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

Consultation responses

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

Summary of consultation responses

33. Ecology Officer: No concerns regarding ecology. Indeed the fountain aspect of the sculpture should benefit the ecology of the lake by aerating the water. The only comment is that installation should be undertaken outside nesting season (ideally between 1 September - 1 March).
34. Parks and Open Spaces Team: Confirm that they are very much in favour of adding this feature to the lake in Southwark Park. However, as the existing fountain has very little water pressure. The Parks and Open Spaces Team would be very disappointed if the sculpture were to be installed without its fountain working.
35. Friends of Southwark Park: Support the proposal

Human rights implications

36. 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.
37. This application has the legitimate aim of seeking to re-install a piece of public art within the borough. 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.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: TP/139-G Application file: 14/AP/0558 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 1778 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	Ciaran Regan, Planning Officer	
Version	Final	
Dated	28 April 2015	
Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic director, finance & corporate services	No	No
Strategic director, environment and leisure	No	No
Strategic director, housing and community services	No	No
Director of regeneration	No	No
Date final report sent to Constitutional Team		29 April 2015

APPENDIX 1

Consultation undertaken

Site notice date: 03/02/2015

Press notice date: 02/04/2015

Case officer site visit date: 03/02/2015

Neighbour consultation letters sent: 03/03/2015

Internal services consulted:

Parks & Open Spaces

Statutory and non-statutory organisations consulted:

Garden History Society
The Victorian Society

Neighbour and local groups consulted:

Friends of Southwark Park

Re-consultation: n/a

APPENDIX 2

Consultation responses received

Internal services

None

Statutory and non-statutory organisations

None

Neighbours and local groups

Friends of Southwark Park