



Planning Committee B

Report title:

RIVER QUAGGY, JUNCTION OF GRANVILLE GROVE & LEWISHAM HIGH STREET, LONDON

Date: 31st January 2023

Key decision: No.

See [“Legal Requirements” in the guidance](#) for more information.

Class: Part 1

See [“Legal Requirements” in the guidance](#) for more information.

Ward(s) affected: Blackheath

Contributors: Barnaby Garcia

Outline and recommendations

This report sets out the Officer’s recommendation of approval for the above proposal. The report has been brought before Committee for a decision due to the submission of three letters of objection from local residents.

Application details

Application reference number(s): DC/22/128176

Application Date: 09 September 2022

Applicant: Lewisham Council Climate Resilience Team

Proposal: The provision of a sculpture (3800mm x 1060mm x 1000mm) for the River Quaggy located on the Junction of Granville Grove and Lewisham High Street SE13.

Background Papers: (1) Submission drawings
(2) Submission supporting documents

Designation: PTAL 6b
Flood Risk Zone 2
Shopping Core Area
Local Open Space Deficiency
Major District Centre
Area of Archaeological Priority
St Stephens Article 4 Direction
Air Quality
St Stephens Conservation Area

Screening: N/A

1 SITE AND CONTEXT

Site description and current use

- 1 The application relates to a portion of pavement located at the junction with Lewisham High Street, Granville Grove, and Kings Hall Mews. This site is located approximately over a culverted section of the River Quaggy.

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Figure 1: Site location plan of proposed sculpture

Character of area

- 2 The immediately surrounding area is diverse in character. The Lewisham Gateway development lies to the West, which has a mixture of uses and is of a contemporary style. The eastern side of the site is more residential in character, though a number of other uses are present, such as the hotel to the northeast. There is a greater mix of

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Victorian and contemporary styles to the east. Further south is the main shopping district in Lewisham. The site is located in a shopping core area.

Heritage/archaeology

- 3 The site is located within the St. Stephens Conservation Area, but is not subject to an Article 4 Direction.
- 4 No listed buildings are in the vicinity, however Granville Grove features a number of locally listed Victorian terraced houses.
- 5 The site is located within an area of Archaeological priority.

Local environment

- 6 The site is located in flood risk zone 2 and falls within an Air Quality Management Area.

Transport

- 7 The site has a PTAL of 6b, the highest transport access level. It is located close-by to Lewisham DLR and Railway Stations, as well as to a number of bus stops.

2 RELEVANT PLANNING HISTORY

- 8 There is no recent, relevant planning history associated with the application site.

3 CURRENT PLANNING APPLICATION

3.1 THE PROPOSALS

- 9 The proposal would see the installation of a sculpture with a height of 1.2m and a width of approximately 1m. It would sit on top of a pole with a height of 2.6m, resulting in a sculpture with a total height of 3.8m.

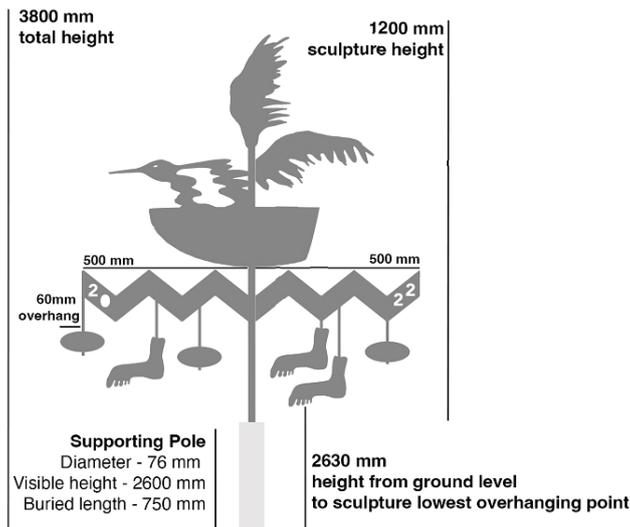
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WIDTH PROFILE

1060 mm total width



DEPTH PROFILE

1000 mm total depth

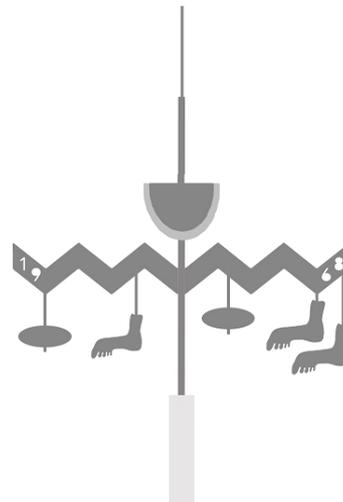


Figure 2: Sections of the proposed sculpture

- 10 The sculpture would be of an abstract design, and is installed as part of Lewisham's status as the London Borough of Culture 2022. The sculpture intends to recognise the heritage of the River Quaggy.
- 11 The sculpture would be installed so as to rotate according to the direction of the wind.



Figure 3: Artist's impression of proposed sculpture

- 12 As demonstrated above, in addition to the hanging sculpture, it is proposed to paint markings on the ground, reflecting the direction of the River Quaggy, and echoing the sculpture's themes and motifs. The painting of the ground does not form part of this application. Nevertheless, officers consider that the painting of the pavement would not constitute development and as such would not require planning permission. However,

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the applicant should engage with the relevant highway authority prior to development, subject to approval.

4 CONSULTATION

4.1 APPLICATION PUBLICITY

13 The public notice was displayed on 18/10/22 and a press notice was published on 14/09/22.

14 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 09/09/22.

Comments and other considerations	Response/Paragraph where addressed
The site location plan shows Granville Grove and should show this street as Lewisham High Street.	Officers acknowledge this, however this matter does not bare weight on the planning merits of this application. It is not clear whether the relevant street is called Granville Grove or Lewisham High Street. While Google mapping software indicates the latter, Bing Maps, and Ordnance Survey Mapping appear to identify the street as the former.
Attention should be given to the trees of this area, and to the viewing platform by the police station.	These matters do not concern this application, and therefore cannot weigh in any decision.
The river should be made safe for wildlife, and trees in the area should be pollarded, instead of investing in the statue.	These factors do not bare any weight on the merits of this planning application specifically.
There is potential for further greening or seating in this area, rather than the proposed development. Development in front of the police station would be more appropriate.	This application can only be determined on its own merits, as these matters identified do not relate to the proposal, they are not considered to be material planning considerations in this case.
There are other more appropriate areas for this type of development.	Officers are only able to assess the application based upon that which has been submitted. The suitability of other sites not related to this application does not bare weight on the merits of this proposal.
Valid planning objection	Response/Paragraph where addressed
The proposed painting on the paving is unattractive and will detract from the character of the St. Stephens Conservation Area.	See paragraphs 47-50
The proposed painted paving will cause issues for those with sight impairment and dementia.	See paragraph 64
The proposed sculpture would not be of a high quality, both visually and in its construction.	See paragraph 46-53

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The proposed sculpture would not relate to the social and architectural history of the area. There are more appropriate locations for this installation.	See paragraphs 48-50
The proposed sculpture would not enhance the character of the St. Stephens Conservation Area.	See paragraphs 48-50
The sculpture would be located on the desire line for pedestrians and would therefore be an obstacle.	See paragraphs 62-63

4.2 INTERNAL CONSULTATION

15 The following internal consultees were notified on 11/10/22.

16 Highways (*Officer's comments in italics*):

17 A scaled drawing showing the dimensions of the sculpture, including clear footway widths and height clearance from the ground in relation to the end of the footway and start of the carriageway. This should be presented to highways for approval prior to construction. *Officers requested this information prior to reaching a decision. It has since been submitted, and officers make the assessment of the application in light of this material.*

18 A footway minimum clearance of 1500mm is required to enable a wheelchair user and a walker to pass each other. Where there is an obstacle, such as lamp columns, sign posts or electric vehicle charging points, the absolute minimum width should be 1000mm, but the maximum length of such a restricted space should be 6 metres (excluding the kerb zone of 450mm). This is in line with DfT's Inclusive Mobility Guidance 2021 and TfL's Streetscape Guidance 2019. *See paragraph 62-63*

19 An unobstructed height above a pedestrian way should be a minimum of 2300mm, except on sub-surface station platforms, where it should be 3000mm. Where a sign is suspended over a footway or pedestrian area, a minimum clearance of 2100mm is acceptable (2300mm on cycleways. This is in line with DfT's Inclusive Mobility Guidance 2021. *See paragraph 62-63*

20 No part of the proposed pavement/floor design should be interrupted or overlaid on the existing tactile paving within the site area. Tactile paving surfaces play an important role, conveying information that vision impaired people can detect with their feet or with a cane. *See paragraph 64*

4.3 EXTERNAL CONSULTATION

21 The following external consultees were notified on 11/10/22:

- Ward Councillors and the Blackheath Society

22 No responses received.

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5 POLICY CONTEXT

5.1 LEGISLATION

23 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise (S38(6) Planning and Compulsory Purchase Act 2004 and S70 Town & Country Planning Act 1990).

24 Planning (Listed Buildings and Conservation Areas) Act 1990: S.66/S.72 gives the LPA special duties in respect of heritage assets.

5.2 MATERIAL CONSIDERATIONS

25 A material consideration is anything that, if taken into account, creates the real possibility that a decision-maker would reach a different conclusion to that which they would reach if they did not take it into account.

26 Whether or not a consideration is a relevant material consideration is a question of law for the courts. Decision-makers are under a duty to have regard to all applicable policy as a material consideration.

27 The weight given to a relevant material consideration is a matter of planning judgement. Matters of planning judgement are within the exclusive province of the LPA. This report sets out the weight Officers have given relevant material considerations in making their recommendation to Members. Members, as the decision-makers, are free to use their planning judgement to attribute their own weight, subject to aforementioned directions and the test of reasonableness.

5.3 NATIONAL POLICY & GUIDANCE

- National Planning Policy Framework 2021 (NPPF)
- National Planning Policy Guidance 2014 onwards (NPPG)
- National Design Guidance 2019 (NDG)

5.4 DEVELOPMENT PLAN

28 The Development Plan comprises:

- London Plan (March 2021) (LPP)
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)
- Site Allocations Local Plan (June 2013) (SALP)
- Lewisham Town Centre Local Plan (February 2014) (LTCP)

5.5 SUPPLEMENTARY PLANNING GUIDANCE

29 Lewisham SPG/SPD:

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- Alterations and Extensions Supplementary Planning Document (April 2019)

5.6 OTHER MATERIAL DOCUMENTS

- Telegraph Hill Conservation Area Character Appraisal (May 2008)

6 PLANNING CONSIDERATIONS

30 The main issues are:

- Principle of Development
- Urban Design and Impact on Heritage Assets
- Highways and Pedestrian Impacts
- Flood Risk

6.1 PRINCIPLE OF DEVELOPMENT

General policy

31 The National Planning Policy Framework (NPPF) at paragraph 11, states that there is a presumption in favour of sustainable development and that proposals should be approved without delay so long as they accord with the development plan.

32 The London Plan (LP) sets out a sequential spatial approach to making the best use of land set out in LPP GG2 (Parts A to C) that should be followed.

Discussion

33 Policies DMP 35 and LTCP 18 speak of the benefits of public art, and how it should be encouraged in new developments. Officers consider the proposal, in principle, to be in line with this objective.

6.1.1 Principle of development conclusions

34 The principle of development is supported, subject to conditions.

6.2 URBAN DESIGN AND IMPACT ON HERITAGE ASSETS

Policy

35 The NPPF at para 126 states the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

36 Heritage assets may be designated—including Conservation Areas, Listed Buildings, Scheduled Monuments, Registered Parks and Gardens, archaeological remains—or non-designated.

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- 37 Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 gives LPAs the duty to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas.
- 38 Relevant paragraphs of Chapter 16 of the NPPF set out how LPAs should approach determining applications that relate to heritage assets. This includes giving great weight to the asset's conservation, when considering the impact of a proposed development on the significance of a designated heritage asset. Further, that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset that harm should be weighed against the public benefits of the proposal.
- 39 London Plan Policy D3 states that development proposals should respond to the existing character of a place by identifying the special and valued features and characteristics that are unique to the locality and respect, enhance and utilise the heritage assets and architectural features that contribute towards the local character. It should also be of high quality, with architecture that pays attention to detail, and gives thorough consideration to the practicality of use, flexibility, safety and building lifespan through appropriate construction methods and the use of attractive, robust materials which weather and mature well.
- 40 CSP 15 High quality design for Lewisham repeats the necessity to achieve high quality design but also confirms a requirement for new developments to minimise crime and the fear of crime.
- 41 CSP 16 ensures the value and significance of the borough's heritage assets are among things enhanced and conserved in line with national and regional policy.
- 42 DMP 30 Urban design and local character states that all new developments should provide a high standard of design and should respect the existing forms of development in the vicinity. The London Plan, Lewisham Core Strategy, and Lewisham DMLP policies further reinforce the principles of the NPPF setting out a clear rationale for high quality urban design.
- 43 DMP 35 Public realm talks of how public spaces should be safe, accessible, attractive and robust. Provision of public art will be encouraged, and, where in a conservation area, should be compatible with the character of that area.
- 44 DMP 36 echoes national and regional policy and summarises the steps the borough will take to manage changes to Conservation Areas, Listed Buildings, Scheduled Ancient Monuments and Registered Parks and Gardens so that their value and significance as designated heritage assets is maintained and enhanced.
- 45 LTCP 18 outlines how public realm should be designed, how it should facilitate a safe, accessible, and attractive environment.
- Discussion*
- 46 As demonstrated, the principle of this development is supported. The Council's development policies talk of the benefits of public art, and therefore encourage its use and implementation. With regards to its design, officers need to consider the degree to which the design of the proposal echoes the aims of this policy.
- 47 The proposed development would be constructed from steel, and would therefore be robust enough to withstand outside elements.

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- 48 The proposed sculpture would only be acceptable were it to be a suitable development for the context. DMP 35 makes reference to how public art within conservation areas should reflect the character of the area. St. Stephens conservation area is characterised by its traditional, Victorian style, which is emphasised by its modern surroundings. New development should preserve this built form. Evidently, the proposed public artwork is contemporary in its design. While in contrast to the traditional built form, contemporary styles can complement traditional design through its juxtaposition. Thus officers consider the design to be appropriate physically, contrasting the heritable features of the conservation area. Furthermore, the sculpture would be located between two roads, on an island between the Lewisham Gateway development and the St. Stevens Conservation Area. The artwork would therefore read as a transition from the modern style of the Lewisham Gateway development towards the traditional form of the St. Stevens Conservation Area.
- 49 However, the provision of artwork should be considered in broader terms than only the physical appearance. The character of the St. Stephens Conservation Area, while most patently derived from the built environment, is also informed by intangible heritage. The Quaggy river intersects the Conservation Area and is a part of its character. The proposed sculpture would expressly celebrate the story of the Quaggy river, and in so doing would reference and complement the intangible heritage of the St. Stephens Conservation Area, as well as Lewisham more broadly.
- 50 Officers therefore consider the proposal to be a suitable addition to the area. Character, can and should be interpreted in both physical and intangible ways. The proposed sculpture would preserve the physical character of the Conservation Area, contrasting its traditional forms and acting as a transition from the Lewisham Gateway development. However perhaps more importantly, the artwork would help to share the intangible heritage of the Conservation Area.
- 51 In light of the above, officers consider that the current proposal would lead to no harm to the St Stephens Conservation Area.

6.2.1 Urban Design Conclusion

- 52 Officers, having regard to the statutory duties in respect of listed buildings in the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant paragraphs in the NPPF in relation to conserving the historic environment, are satisfied the proposal would preserve the character or appearance of the St Stephens Conservation Area.
- 53 The proposed sculpture would be appropriate in its setting, and would help to share the cultural heritage of the river Quaggy, a feature which is an important part of the Conservation Area.

6.3 HIGHWAYS AND PEDESTRIAN IMPACTS

General Policy

- 54 The NPPF at para 136 states control in the interests of public safety should take account of cumulative impacts.

Policy

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- 55 LPP GG1 broadly speaks of how new development should engage all stakeholders and ensure that these changes are of a benefit to London.
- 56 LPP SD6 talks of how developments in town centres and highstreets should be accessible and walkable, and inclusive to all, including those with disabilities.
- 57 LPP SD7 discusses how development in town centres should be well integrated with cycle and walking networks.
- 58 LPP T2 describes how developments should encourage walking and cycling, and should reduce reliance on cars, and how developments should re-balance the degree of space allocated to pedestrian/cycle uses in comparison to car uses.
- 59 CSP 14 makes reference to how the access and safety of pedestrians and cyclists should be prioritised and promoted.
- 60 DMP 35 talks of how public realm alterations should allow safe passage for all, including those with disabilities.

Discussion

- 61 Officers acknowledge that the artwork would be prominently located centrally on a pedestrian island, which is currently an important thoroughfare from the St Stephens Conservation Area towards the Lewisham Gateway development, as well as for north/south connectivity.
- 62 While the artwork would be centrally located, officers consider the pole on which the work would be displayed to be sufficiently high such that it would not unacceptably block access on the island. Indeed, assurances were required by the Council's internal highways team that there would be a minimum of 1500mm clearance around the pole the highway, and that the work should provide a minimum clearance of 2300mm. These factors are to allow for the safe passage of pedestrians, including disabled persons.
- 63 Officers note that the proposed work would comply with these requirements, and therefore assess that the work would be acceptable, and would not result in unacceptable harm to pedestrians.
- 64 Furthermore, it is noted that the internal highways team requested that any painting of the ground avoid the textured elements of the pavement, as this would otherwise degrade the accessibility of the public realm. It is noted that while a unique pattern, painted floor in public areas is commonplace, and does not *per se* reduce accessibility of public realm. Irrespective of the aforementioned, as referenced earlier in this report, the painting of the paving does not constitute part of this permission, and officers do not consider the painting of the paving to amount to development, and therefore it would not require planning permission.
- 65 While the artwork would be a unique item visible from the highway, the statue would not be illuminated, and would not be considered to be a distraction to drivers, and would therefore not compromise public safety.

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6.3.1 Highways and pedestrian impacts conclusion

66 Officers consider the proposed artwork to comply with the comments provided from the internal highways team, and conclude that it would not result in unacceptable harms to pedestrians or highway users.

6.4 FLOOD RISK

67 The scale and type of development is such that, though located in Flood Risk Zone 2, it would not require mitigatory measures.

7 LOCAL FINANCE CONSIDERATIONS

68 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:

- a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
- sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).

69 The weight to be attached to a local finance consideration remains a matter for the decision maker.

70 CIL is not payable for developments such as this scheme, therefore the CIL is not a material consideration.

8 EQUALITIES CONSIDERATIONS

71 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

72 In summary, the Council must, in the exercise of its function, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and persons who do not share it.

73 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

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- 74 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>
- 75 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
- The essential guide to the public sector equality duty
 - Meeting the equality duty in policy and decision-making
 - Engagement and the equality duty
 - Equality objectives and the equality duty
 - Equality information and the equality duty
- 76 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>
- 77 There is a potential impact on equality given the facts as outlined by the Council’s Highways officer, however, the applicant has demonstrated that the application would not result in any impact on equality, as the proposal has been designed to accommodate all pedestrian needs. It has therefore been concluded that there is no impact on equality.

9 HUMAN RIGHTS IMPLICATIONS

- 78 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. “Convention” here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including:
- Article 8: Respect for your private and family life, home and correspondence
 - Protocol 1, Article 1: Right to peaceful enjoyment of your property
- 79 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as Local Planning Authority.

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80 Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with the above Convention Rights will be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the Local Planning Authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

81 This application has the legitimate aim of installing public art within public realm. The rights potentially engaged by this application, including Article 8 and Protocol 1, Article 1 are not considered to be unlawfully interfered with by this proposal.

10 CONCLUSION

82 This application has been considered in the light of policies set out in the development plan and other material considerations.

83 The proposed sculpture would be acceptable in design terms, being constructed from appropriate materials, and being suitable for the context of the conservation area. It would be considered to be acceptable in highways terms, and, owing to its scale, would be acceptable with regards to flood risk.

11 RECOMMENDATION

84 That the Committee resolve to GRANT planning permission subject to the following conditions and informatives:

11.1 CONDITIONS

1) **FULL PLANNING PERMISSION TIME LIMIT**

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: As required by Section 91 of the Town and Country Planning Act 1990.

2) **DEVELOP IN ACCORDANCE WITH APPROVED PLAN**

The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below:

Sculpture Design; Received 26/08/22

Site Location Plan; Received 06/09/22

LBL 101 A; Received 05/01/23

Reason: To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.

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11.2 INFORMATIVES

- 1) Positive and Proactive Statement: The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, positive discussions took place which resulted in further information being submitted.

12 BACKGROUND PAPERS

85 None

13 REPORT AUTHOR AND CONTACT

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