

CAMBRIDGE CITY COUNCIL

REPORT OF: Head of Planning
TO: Planning Committee
WARD: Trumpington Ward

Request to vary the Section 106 Agreement made in association with planning permission 10/1181/FUL (for erection of an office development with associated car parking) on land adjacent to Unex House, Hills Road, to allow acceptance of a public art proposal not in accordance with the Council's adopted Public Art SPD, namely a sculpture by Pablo Atchugary entitled 'The Don'.

1. INTRODUCTION

- 1.1 On 6th April 2011 Planning Committee considered an application (10/1181/FUL) to allow the erection on land adjacent to Unex House, Hills Road, (previously used for car parking) of a new office building including car parking space. The Committee resolved to approve the application, subject to conditions and to the completion of a Section 106 Agreement. Such an agreement was later completed, and permission was granted on 18th January 2012.
- 1.2 The fifth schedule of the Section 106 Agreement provides, inter alia, that the applicants or their successors in title will provide public art which is: (1) fully integrated into the development; (2) in accordance with the Public Art Delivery Plan; and (3) in accordance with the SPD.
- 1.3 The applicants have commissioned an artefact which is complete (Appendix 5), and which they wish to submit to fulfil the requirements of the Section 106 Agreement, but the commissioning and execution of this artefact has not followed the requirements of the Public Art SPD. The applicants therefore seek to vary the Agreement, so that the artefact already produced can be accepted in satisfaction of the public art obligation associated with this development.

2. RECOMMENDATIONS

- 2.1 That Members refuse to vary the existing Section 106 agreement associated with this application in the manner sought by the applicants.
- 2.2 That Members authorise officers to decline the proposed artefact, 'The Don', as a fulfilment of the public art obligation on this site, and to request the submission of a Public Art Scheme as required in the Section 106 Agreement or a financial contribution to off-site public art.

3.0 BACKGROUND

- 3.1 Because of the scale of this proposed office development, City Council policy, in the form of Policy 3/7 of the Cambridge Local Plan 2006, and the Public Art SPD, requires the provision of public art. This provision is to be made in accordance with a Section 106 agreement entered into by the applicants and the Council in

association with the permission. The current proposal to vary that agreement must be considered in the light of City Council policy on public art, and in particular, the detailed guidance set out in the adopted SPD, which sets out the key requirements for the successful delivery of public art, the key roles which it should fulfil, and the criteria by which high quality in public art can be ensured.

Key requirements for successful delivery

3.2 Section 7 of the SPD sets out key requirements for the successful delivery of public art projects. These are:

1. early identification of the requirement for public art to be provided;
2. early establishment of a three way engagement between the Council, the developer and the artist/arts consultant for individual projects requiring a Public Art Strategy;
3. agreement on the principles of how the public art obligation is to be fulfilled;
4. early liaison with stakeholders and organisations where permissions and approvals or where an Environmental Impact Assessment will be required;
5. agreement on what documentation is to be submitted at each stage of the process;
6. agreement on the approach to community engagement;
7. agreement on the procurement and delivery of the art work including any required planning permission;
8. clear decision-making procedures in compliance with policies.

3.3 On 30th January 2009, the applicants submitted details of a proposal for a sculpture on this site to the Director of Planning in connection with a previous application, 06/0653/FUL. The sculpture in that instance was to take the form of three figures, and a different artist, Anthony Stones, had been commissioned. At the time of that submission, none of the requirements listed as 2-8 above had been fulfilled. Only a very vague idea of the form and scale of the proposed sculpture was given (see Appendix 1). The development approved under 06/0653/FUL did not proceed, and no further discussions took place on the public art proposal.

3.4 When the present application 10/1181/FUL was submitted, the Design and Access Statement included perspective views of the site, on one of which an impression of a large sculpture was included (see Appendix 2). No reference was made to this sculpture in the text of the Design and Access Statement, no Public Art Scheme or Public Art Delivery Plan was included with the application, and the sculpture does not appear on the application drawings. No documents submitted with the application give any details of the proposed artefact or the process of its commissioning or execution. The Council has no information to show that any of the requirements listed as 2-8 above had taken place at the time of the submission of the application.

3.5 Subsequently, a further application on this site, 12/0792/FUL, for a larger development were submitted. Again, no details of a Public Art Scheme or a Public Art Delivery Plan were submitted, and no reference was made to a sculpture in the Design and Access text, the application drawings or any other documents submitted with the application apart from some small perspective views similar to those supplied with 10/1181(See Appendix 3).The application was refused for several reasons, one of which was:

The application fails to make provision for public art, contrary to policy 3/7 of the Cambridge Local Plan (2006) and this Council's adopted Public Art SPD 2010

3.6 The applicants lodged an appeal against this refusal, and as part of their appeal submission, provided the Inspector with photographs of the sculpture 'The Don' which they now wish to submit in connection with this application. It is not clear exactly when the artefact was commissioned or when it was completed, but it has been in storage locally for some time. At the appeal hearing, officers defended the public art reason for refusal, explaining the ways in which the artefact submitted at appeal failed to fulfil the requirements of the Public Art SPD, and maintaining that evolution of the design of the building had reached a point that precluded the satisfactory inclusion of any public art which did meet the requirements of the SPD.

3.7 In his decision letter dismissing this appeal (relevant extract in Appendix 4), the Inspector noted that the SPD:

sets out a process which includes the early identification of a requirement for public art, engagement with the Council, liaison with stakeholders and community engagement

and also that:

the appellant has undertaken none of these steps but has already commissioned and had produced a sculpture which is proposed as part of the development.

3.8 Although he dismissed the appeal, the Inspector did not accept the Council's public art argument as a reason for refusal. He made it clear, however, that he accepted that the artefact then (and now) proposed, failed to fulfil the requirements of the SPD. In stating, as he did:

It seems to me that the Council would have a choice of either accepting [a financial] contribution or engaging with the appellant, albeit at a later stage than it would normally wish, and seek to agree a work of art to be provided on site. The appellant agreed that this need not be the work that has already been produced,

the Inspector clearly accepted that the Council's rejection of the statue 'The Don' was justified by policy.

3.9 In my view, none of the processes of engagement, liaison, or agreement with the Council or other parties identified under points 2-8 in paragraph 3.2 above has taken place in connection with this application or the public art proposal now submitted. The application has wholly failed to fulfil the key requirements for successful delivery of public art as set out in the Public Art SPD, and in this respect, the proposal is contrary to Cambridge Local Plan 2006 policy 3/7.

Key roles public art should fulfil

3.10 Part 5 of the Public Art SPD states that successful public art should aim to deliver benefits through a number of roles. In the table below, I list these roles, and assess the extent to which the proposed artefact, and the process of its commissioning and execution, have fulfilled these roles.

Roles defined in Part 5 of the SPD	Extent to which the role is fulfilled
Helping people to reflect on the nature of where they live or work or socialise	The artefact has no apparent connection with any workplaces or residences locally, the nature of work in the immediate vicinity or the history of the site or the locality.
Encouraging ownership and engagement with spaces and places	The absence of any engagement with the local community makes such ownership unlikely.
Improving community safety in the public realm	Neutral.
Contributing to community building and social cohesion	Unlikely given lack of engagement.
Empowering and involving the community in decision making	Not undertaken.
Fostering a sense of identity, citywide and locally	Unlikely given lack of engagement and absence of connections with local homes, work, or history.
Giving information about the place and its meaning	No connection between the artefact and its surrounding area. Hence, any information suggested is likely to be confusing.
Making connections that link the various meanings of the place and its relationship to its context	No connections.
Giving directions through the place	No directions given.
Animating the place	The proposed artefact does not appear likely to give any sense of animation, especially given the mismatch between it and the space in which it is proposed to be set, and its lack of human scale.
Improving environmental quality through the creation of artworks that provide visual and emotional delight	The extent to which the proposed artefact provides visual and emotional delight will be different for each individual observer, but it is my view that it would not improve environmental quality because of the inappropriateness of its scale in this location.
Increasing public perception of and interest in art	May increase perception, but given its shortcomings, the perception is likely to be negative.
Increasing public perception of and interest in how artists work and the artistic process	Not likely, given the absence of engagement or liaison, and the pre-commissioning, execution and off-site storage of the artefact.
Providing opportunities for artists to create work and have it seen by large numbers of people.	Probably successful in this respect.

Promoting social engagement, relaxation and encouraging Public health	Neutral.
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3.11 In my view, the proposed artefact and the process of its commissioning and execution have, apart from providing an opportunity for a work to be created and displayed in public, wholly failed to fulfil the roles expected of public art as set out in the Public Art SPD, and in this respect, the proposal is contrary to Cambridge Local Plan 2006 policy 3/7.

Criteria for high quality in public art

3.12 The Public Art SPD also emphasises that projects must strive for high quality. It states that success in this respect will depend on clear objectives for the works, the effectiveness of the commissioning, and putting the artist at the heart of the process. There is no evidence that clear objectives for an artefact on this site have ever been set, and as a result the effectiveness of the commissioning cannot be assessed. There is also no evidence that the artist has been put at the heart of the process, because there is no information to show that the artefact proposed forms the artist’s response to the site rather than the commissioner’s view of what would be suitable.

3.13 Part 5 of the SPD also states that to achieve high quality, public art projects must strive to show that:

- (a) the proposed work is of high artistic quality;
- (b) the project supports existing artists;
- (c) the work is innovative;
- (d) the work is sensitive and appropriate to its location;
- (e) the art works are integrated into a broad design strategy;
- (f) there is a defined public benefit for the community;
- (g) arrangements are in place to work with the community and stakeholders;
- (h) the project is technically and financially viable and can be delivered;
- (i) equal opportunities and sound management, are in place; and
- (j) the local environment is able to absorb any additional visitors.

3.14 No evidence on these matters has been submitted. In my view the project clearly fails to meet criteria (d) (e) (f) (g) and (i) above, and I am doubtful about whether it can be judged to meet criterion (c). Criteria (b) and (h) are satisfied, and it is my view that criterion (j) would also be met. Criterion (a) is a matter of judgement, but in my view, the failure of the artefact and the process of its evolution to meet so many of the other criteria mean that its quality must at best be considered questionable.

3.15 In my view, the proposed artefact and the process of its commissioning and execution have fulfilled few of the criteria for a project of high quality in public art as set out in the Public Art SPD, and in this respect, the proposal is contrary to Cambridge Local Plan 2006 policy 3/7.

3.16 In my opinion, the process by which this public art submission has been developed fails to fulfil any of the key requirements for the successful delivery of public art identified by the Public Art SPD other than the basic acknowledgement

that public art is required in association with the development. Because of this failure, and for other reasons, the proposed artefact fails to fulfil any of the roles which the City Council expects public art to fulfil, as set out in Section 5 of the SPD, other than the simple one of enabling a work to be displayed. It also fails to meet the majority of the criteria by which the delivery of high quality in public art projects is assessed. To allow the proposed variation, and to accept the proposed artefact as fulfilling the requirements of development plan policy would in my view detract from the quality of the environment on the site and on the Hills Road approach to the city. The proposal is contrary to policy 3/7 of the Cambridge Local Plan 2006 and the Public Art SPD and in my view its acceptance would undermine the integrity of those policies and risk bringing them into disrepute..

4.0 CONSULTATIONS

- 4.1 I have consulted the Public Art Co-ordinator about this request. Her comments are summarised below.
- 4.2 The proposal is for a very large sculpture, fairly abstract in nature, which takes the form of a Cambridge Don or student. The proposal does not comply with any element of the City Council's policy on public art. It is inappropriate for the site and context, and has been pre-purchased for the site rather than developed by an artist as a response to the site. The scale of the work is too large for the context of the surrounding buildings and space and hence the quality of the work, the development and the wider townscape would be compromised by its installation. As a standalone work it is not of the best quality; its shortcomings would be exacerbated by being put next to the proposed building and within a small space, which was not designed to take the work. The SPD was formulated to avoid exactly these problems, and if it had been followed, a solution as unsatisfactory as this could not have been put forward.
- 4.3 No Public Art Delivery Plan was submitted either with this application, or with the subsequent application 12/0792/FUL , which was refused and later dismissed at appeal Given this, and the design of the building and its spaces, it was virtually impossible to include a work, which could integrate with the development with meaning and quality. The non-inclusion of a Public Art Delivery Plan does not comply with the City Council's SPD for the provision of public art within new development. The nature of the design of this development does not offer an opportunity for on-site public art to be commissioned at this late stage, which provides mitigation and public benefit.
- 4.4 I cannot support this variation, for the reasons set out above. It is possibly the poorest quality work that has ever been submitted to the Council. It is not site specific and is a work already purchased and has no relationship to this site. It is too large a scale for the context of the space it will be located within and will compromise the quality of the new development and have a negative impact on the wider public realm and streetscape.

5.0 CONCLUSIONS

- 5.1 I recommend that the Committee approves the recommendations at paragraphs 2.1 and 2.2 of this report.

6.0 IMPLICATIONS

- (a) **Financial Implications** – Variation of the Section 106 agreement, and acceptance of ‘The Don’ in fulfilment of the public art obligation would mean that it would not be possible to secure an acceptable scheme of public art on this site, nor to secure a financial contribution which could enable public art elsewhere in the area.
- (b) **Staffing Implications** – None
- (c) **Equal Opportunities Implications** – None
- (d) **Environmental Implications** – It is the view of officers that installation of the proposed artefact ‘The Don’ would have a negative impact on the character of this part of Hills Road. It is also likely that acceptance of this variation would make it more difficult to ensure that the environment in the city as a whole is enhanced by appropriate public art in the future.

Climate Change Impact: Nil

- (e) **Procurement** – None
- (f) **Consultation and Communication** - None
- (g) **Community Safety** - None

BACKGROUND PAPERS: The following are the background papers that were used in the preparation of this report:

Planning application 06/0653/FUL
Planning application 10/1181/FUL
Planning application 12/0792/FUL
Applicants’ statement for appeal in respect of 12/0792/FUL
Inspector’s decision on appeal on 12/0792
Public Art SPD 2010

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