

Item No. 2

Application Reference Number: P/20/0306/2

Application Type:	Full Planning Permission	Date Valid:	13/02/2020
Applicant:	Charnwood Borough Council		
Proposal:	Erection of Public Art		
Location:	Green Space Opposite 16 Celandine Road Shepshed Leicestershire LE12 9QT		
Parish:	Shepshed	Ward:	Shepshed West
Case Officer:	Jeremy Eaton	Tel No:	01509 634692

This item is referred to Plans Committee as it is an application submitted by Charnwood Borough Council, and an objection has been received. In these cases the Head of Planning and Regeneration cannot determine the application under Delegated Powers.

Description of the Application Site

The application site comprises a small area of managed grass land, approximately 0.0001 Ha. in extent, situated within the wider area of public open space situated to the eastern side of Celandine Road. It lies within the William Davis residential development scheme which is situated to the west of Anson Road and south of Tickow Lane. The site is outside the Development Limits to the town of Shepshed within the open countryside.

The site is located at the edge of a sand and gravel Mineral Consultation Area (MCA).

The site benefits from an extant Planning Permission (reference P/19/1651/2), granted by the Local Planning Authority on 9th September 2019, in respect of the erection of a public art installation on-site.

Application Proposals

This application seeks Full Planning Permission for the erection of public art installation (a sculpture) on the application site.

The proposed art sculpture will sit on a reinforced concrete pad foundation of approximately 1.0m wide x 1.0m length x 0.8m depth, which will be located below ground-level. Its height would be approximately 3.95m above ground level with a maximum width of 1.0m. Its design is inspired by the local hedgerow flora and is based on botanical drawings of a Buttercup. It will comprise a tall and broad plant stem emerging from a seed pod with stylized foliage and flowers at its apex. It will be fabricated from thick internally welded stainless steel components that in turn are welded to a substantial steel base plate, which will then be bolted to the pad foundation.

This application is an amended scheme to that which was granted Planning Permission under reference P/19/1651/2. The amendment in this case relates to the substitution of the public art installations (sculpture) that was approved under Planning Permission references P/19/1651/2 and P/19/1650/2 respectively. The previous public art sculpture comprised of a different type of flower, of a similar scale and type.

Planning application P/11/2697/2 secured funding by way of a Section 106 Legal Agreement for the installation of public art on the application site. This money has been received by the Council and the intention is to now use this money to implement the public art installation.

The application has been accompanied by the following planning drawings:

- Site Location Plan;
- Proposed Technical Details; and
- Photomontages.

Development Plan Policies

Charnwood Local Plan Core Strategy 20011-2028 (Adopted 9th November 2015)

The policies relevant to this proposal include:

Policy CS2 – High Quality Design requires developments to make a positive contribution to Charnwood, reinforcing a sense of place. Development should respect and enhance the character of the area, having regard to scale, massing, height, landscape, layout, materials and access; protect the amenity of people who live or work nearby, provide attractive well managed public and private spaces; well defined and legible streets and spaces and reduce their impact on climate change.

Policy CS11 – Landscape and Countryside – seeks to support and protect the character of the local landscape and countryside.

Policy CS25 – Presumption in Favour of Sustainable Development – sets out a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

Borough of Charnwood Local Plan 1991-2026 (adopted 12 January 2004) (saved policies)

The policies relevant to this proposal include:

Policy ST/2 – Limits to Development – Aims to confine development to land within the Limits to Development identified on the Proposals Map.

Policy EV/1- Design - Seeks to ensure a high standard of design for developments which respect the character of the area, nearby occupiers, and is compatible in mass,

scale, layout, whilst using landforms and other natural features. It should meet the needs of all groups and create safe places for people.

Policy CT/1 - General Principles for Areas of Countryside, Green Wedge and Local Separation - states that development in these areas will be strictly controlled. Planning permission will be granted for the re-use and adaptation of rural buildings for uses suitable in scale and nature and small-scale built development where there would not be a significant adverse environmental impact and the proposal would improve facilities for recreation or leisure uses.

Policy CT/2 - Development in the Countryside - In the countryside, development which is acceptable in principle will be permitted where it would not harm the character and appearance of the countryside.

Leicestershire County Council Minerals and Waste Local Plan (2019)

Policy M11 – Safeguarding of Mineral Resources - aims to prevent non-mineral related development from potentially sterilising any mineral present within a particular site.

Other material considerations

The National Planning Policy Framework 2019 (NPPF)

The NPPF is a material consideration in planning decisions. The NPPF seeks to achieve sustainable development that fulfils economic, social and environmental objectives.

Paragraph 11 states that where development accords with an up to date Development Plan it should be granted planning permission but that where relevant policies are absent or the policies which are most important for determining the application are out of date permission should be granted unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- policies in the NPPF that protect areas or assets of importance provide a clear reason for refusal.

Paragraph 12 adds further emphasis to the primacy of the development plan stating that where proposals don't accord with an up to date plan they should normally be refused unless material considerations indicate otherwise.

In terms of the remainder of the NPPF, sections relevant to the consideration of this application include the following:

Paragraph 91 states that planning decisions should aim to achieve safe places that are safe and accessible so that crime and disorder, and the fear of crime, do not undermine the quality of life.

Paragraph 92 outlines that planning decisions should plan positively for the provision of cultural facilities, amongst other things, to enhance the sustainability of communities and residential environments.

Paragraph 97 outlines that existing areas of open space should be retained, and not be built on, unless it is surplus to requirements, or alternative or better provision would be provided elsewhere.

Paragraph 127 seeks to foster high quality design.

Paragraph 130 outlines that planning permission should be refused for development of poor design that fails to take opportunities available to improve the character and quality of an area and the way it functions.

Paragraph 170 outlines that planning decisions should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes.

Paragraph 204 outlines that planning policies should, amongst other things, safeguard mineral resources by defining Mineral Safeguarding Areas and ensure mineral resources are not steralised by non-mineral related development.

National Planning Practice Guidance (NPPG)

This was launched as a web based resource, and replaces a list of previous practice guidance documents and notes, as planning guidance for England and consolidates this guidance on various topics into one location and condenses previous guidance on various planning related issues.

National Design Guide (2019)

This document sets out the Central Government's design guidance which is intended to encourage, promote and inspire a higher standard of design in respect of development proposals.

Design Supplementary Planning Document (January 2020)

This document sets out the Council's design guidance which is intended to encourage, promote and inspire a higher standard of design in respect of development proposals.

Charnwood Landscape Character Assessment (2012)

This document identifies the distinct landscapes within the Borough by describing their key characteristics and natural, historical and cultural features. It defines six distinct landscape character areas, of which the site is located within the Charnwood Forest Landscape Character Area.

Relevant Planning History

The application site has been the subject of the following relevant planning history:

- P/11/2697/2 - Site for residential development for up to 85 dwellings with associated access – Approved (15.04.2013); and
- P/19/1651/2 - Erection of public art – Approved (09.09.2019).

Response of Statutory Consultees

Leicestershire County Council (Minerals)

It is advised that the application site lies at the edge of a sand and gravel Mineral Consultation Area (MCA). Policy M11 of the Leicestershire County Council Mineral and Waste Local Plan aims to prevent non-mineral development from potentially sterilising any mineral present; however, given that the proposed development is to be located within an existing area of public open space within an existing built-up residential area, it is suggested that this area would be unsuitable for mineral resource extraction in which case the proposed development would not conflict with this Policy.

Third Party Representations

Local Community

1 no. letter of representation has been received in connection with this application, which objects to the proposed development. Concerns relate to the following matters:

- The location of the proposed development, directly opposite a residential dwelling, is considered to be inappropriate.
- The maintenance of the public art installation;
- Anti-social behaviour;
- Health and safety of users of the public open space in respect of the nearby flood attenuation basin;
- It is suggested that this proposal would result in the de-valuation of house prices of the neighbouring residential properties; and
- It is suggested that spending money on public art would represent inappropriate investment, and this investment could be spent elsewhere and put to better use.

Consideration of the Planning Issues

This application is for Full Planning Permission and the key material planning considerations include:

- The principle of the proposed development;
- Design;
- Impact on residential amenity;
- Impact on mineral resources; and
- Other matters.

Principle of the proposed development

The principle of the proposed development has already been established by virtue of Planning Permission (reference P/19/1651/2) being granted by the Local Planning Authority on 9th September 2019 for a public art installation on the application site. There is also an extant permission for a similarly sized sculpture in the same location which could be erected should this current application not be implemented.

Design

Policies CS2 of the Charnwood Local Plan 2011-2028 Core Strategy and “saved” Policy EV/1 of the Charnwood Local Plan seek to ensure high quality design and layout, which respects the character and appearance of the local area and is compatible with the streetscene and the wider built context.

Policy CS11 of the Charnwood Local Plan 2011-2028 Core Strategy and “saved” Policy CT/2 of the Charnwood Local Plan seek to protect the character of the local landscape and the countryside.

The application site relates to an area of public open space situated within a residential development scheme and although the proposal lies outside of the adopted limits to development, these limits pre date the permission for the housing. In that respect the greatly changing character of the area is material. Although the site falls within open countryside and the Charnwood Forest Landscape Character Area this must be tempered by the extant consent.

With regard to the siting of the proposed public art installation, whilst concerns have been raised in this respect, this was previously considered under Planning Application reference P/19/1651/2, and the application site was deemed to be an appropriate site for the location of the public art installation. Therefore, the principle of a public art installation on the application site has already been established.

It is considered that the scale of the proposed art sculpture would be appropriate in this case, especially as it is designed to make a statement, and would be an appropriate response to the surrounding context. It is inspired by local biodiversity and is based on botanical drawings of a Buttercup, This is considered to be appropriate in this location. The materials chosen are considered appropriate in this case given that they would not only assist in respect of making a statement, as they would naturally stand out, but would also assist in terms of the long-term maintenance of the sculpture.

In this case, by virtue of siting, scale, form, material treatment and overall appearance, it is considered that the proposed development would provide an attractive public art structure within an area of public space, which would be reflective of local context and would assimilate well in respect of its wider surrounding context (the public open space). In addition, it is considered that the proposal would assist in providing a wider-improved visual amenity to the William Davis residential development scheme.

With regard to the future management and maintenance of the public art installation, no detailed information concerning these matters has been submitted in support of this application. In this case, the sculpture would be maintained by the Council itself and this would be in accordance with standard maintenance arrangements. The materials and finish chosen are such that maintenance would be minimal.

In view of the above, it is considered that the proposed development would be in accordance with the relevant provisions of Policies CS2 and CS11 of the Charnwood Local Plan (Core Strategy) and “saved” Policies EV/1 and CT/2 of the Charnwood Local Plan 2004. Furthermore, it is considered that the proposed development would be in accordance with relevant provisions of the NPPF, notably Paragraphs 127, 130 and 170.

Impact on residential amenity

Policies CS2 of the Charnwood Local Plan 2011-2028 Core Strategy and “saved” Policy EV/1 of the Charnwood Local Plan 2004 seek to protect the amenities of nearby properties.

In order to objectively assess the impact of the proposed development upon existing residential amenity, the Council has adopted the Design Supplementary Planning Document (SPD), which relate to matters of design and residential amenity.

The guidance outlines that there are four main ways in which development can impact upon residential amenity:

- Loss of light (overshadowing);
- Loss of privacy (overlooking);
- The erection of an over dominant or overbearing structure (outlook); and
- Noise.

The neighbouring residential property which would potentially be affected by the proposal includes No. 16 Celandine Road. By virtue of siting, level of separation and the landscaped nature of the area of public open space, it is considered that the proposed development would not affect other neighbouring residential properties located along Celandine Road or Cowslip Drive.

With regard to No. 16 Celandine Road, the proposed public art structure would be sited approximately 14.0m from the side elevation of No. 16 Celandine Road, orientated to the east. Its side elevation is un-fenestrated with the exception of 2 no. non-habitable room windows at first floor level.

In this case, the siting and orientation of the sculpture and the distance from No. 16 Celandine Road, mean there would be no adverse impact on No. 16 by way of loss of light (both natural day and sun light). As there are no windows facing the sculpture within this property and given the distance between the two there would be no overbearing impact. The sculpture would have no impacts with regard to loss of privacy or noise due to its nature.

The occupant of 14 Celandine Road has objected to the application but although this property is directly facing it is sufficiently distant and separated by open and public spaces for there to be no material impact in terms of light, outlook or privacy.

Concerns were raised in respect of the proposal giving rise to anti-social behaviour due to the the sculpture acting as an attraction for people to congregate around. Any

anti-social behaviour, that would arise would be subject to control under other legislation. As a result, it is considered that this matter would be appropriately addressed without any further control required under the planning process.

In view of the above, it is considered that the proposed development would be in accordance with the relevant provisions of Policy CS2 of the Charnwood Local Plan (Core Strategy) and “saved” Policy EV/1 of the Charnwood Local Plan 2004. Furthermore, it is considered that the proposed development would be in accordance with the relevant provisions of the NPPF, notably Paragraph 127.

Impact on mineral resources

Policy M11 of the Leicestershire County Council Minerals and Waste Local Plan (2019) aims to prevent non-mineral related development from potentially sterilising any mineral resources that may potentially be present on-site.

The application site is located at the edge of a sand and gravel Mineral Consultation Area (MCA).

Following consultation with Leicestershire County Council (Minerals), it is advised that whilst Policy M11 of the Leicestershire County Council Mineral and Waste Local Plan aims to prevent non-mineral related development from potentially sterilising any mineral present on-site, given that the proposed development is to be located within an existing area of public open space within an established built-up residential area, it is suggested that this area would be unsuitable for mineral resource extraction in which case the proposed development would not conflict with this Policy.

Accordingly, it is considered that the proposed development would be in accordance with Policy M11 of the Leicestershire County Council Minerals and Waste Local Plan (2019). Furthermore, it is considered that the proposed development would be in accordance with the relevant provisions of the National Planning Policy Framework, notably Paragraph 204.

Other matters

Within the representation received from the local community, concerns have been raised in respect of the impact of the proposed development on residential property prices. This matter represents a non-material planning consideration, and, therefore, this matter will not be further considered within the assessment of the proposed development.

In addition, concerns have been raised in respect of whether or not expenditure on public art represents an appropriate investment, and whether or not this investment could be spent elsewhere and put to better use. A scheme of public art is required under Planning Permission reference P/11/2697/2, and it is considered that this proposal meets that requirement. In addition, the S106 Agreement monies can only be spent on public art, and so this money could not be spent elsewhere.

Concerns were raised in respect of the health and safety of users of the public open space in respect of the nearby flood attenuation basin. This matter falls outwith the

application site and the scope of this application, and therefore, no further consideration can be had of this matter within the assessment of the proposed development.

Conclusion

The principle of the proposed development has already been established by virtue of Planning Permission (reference P/19/1651/2) being granted by the Local Planning Authority for a public art installation on the application site. Additionally there is an extant permission for a similar development which was granted in 2019.

The proposed development would be acceptable on design and residential amenity grounds, in accordance with the relevant provisions of “saved” Policies CT/2 and EV/1 of the Charnwood Local Plan 2004 and Policies CS2, CS11 and CS25 of the Charnwood Local Plan (Core Strategy). Furthermore, the proposed development would be in accordance with the relevant provisions of the National Planning Policy Framework, including Paragraphs 127, 130 and 170.

The proposed development would be sited on land which would be unsuitable for mineral resource extraction in which case the proposed development would be in accordance with the relevant provisions of Policy M11 of the Leicestershire County Council Minerals and Waste Local Plan (2019). Furthermore, the proposed development would be in accordance with the relevant provisions of the NPPF, notably Paragraph 204.

In view of the above, it is recommended that Planning Permission be granted.

RECOMMENDATION

Approval of Planning Permission subject to the following Planning Conditions and Informative Notes.

Planning Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan (received by the Local Planning Authority on 12th February 2020);
 - Celandine Road Sculpture – dimensioned drawing (received by the Local Planning Authority on 12th February 2020); and

Reason: For the avoidance of doubt.

3. The development hereby permitted shall be constructed entirely of the materials specified within Question 9. Materials on the Application Form, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and the character and appearance of the area and to accord with the Policies CS2 and CS11 of the Charnwood Local Plan (Core Strategy) and “saved” Policy EV/1 of the Charnwood Local Plan.

Informative Notes:

1. The proposal accords with “saved” Policies CT/2 and EV/1 of the Charnwood Local Plan 2004, Policies CS2, CS11 and CS25 of the Charnwood Local Plan (Core Strategy) and Policy M11 of the Leicestershire County Council Minerals and Waste Local Plan (2019); and no other material considerations indicate that the policies of the Development Plan should not prevail. Furthermore, the decision has been reached taking into account Paragraph 38 of the National Planning Policy Framework.
2. The Applicant is requested to note that this proposal may require separate consent under the Building Regulations and that no works should be
3. The Applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

