

<u>APPLICATION NO:</u>	24/00485/KMBC1	<u>CASE OFFICER:</u>	Kim Vo
<u>WARD:</u>	Roby	<u>PARISH:</u>	
<u>LOCATION:</u>	Land Adjacent to Huyton Railway Station Entrance, Derby Road, Huyton		
<u>PROPOSAL:</u>	INSTALLATION OF A PUBLIC ART SCULPTURE WITHIN AN AREA OF OPEN PUBLIC SPACE.		

Site Description

The application relates to part of the adopted highway at Derby Road, adjacent to the northern entrance of Huyton Railway station. The application site is located within the Huyton Town Centre as defined by Policy CS1 and CS6 of the Knowsley Local Plan Core Strategy (January 2016).

Proposal

The proposal seeks to install a public art sculpture which will measure 3m wide and have a total height of 2.91m. It will be of a circular shape to form as a 'gateway/portal' and includes cypher motif designs around the perimeter. It will be finished in steel and coloured in red, with 11no. light fittings proposed to the inside perimeter of the structure, which will be activated during the evening/nighttime. A 10mm thick plate will be welded to the base of the artwork and will be bolted into a concrete base. A small plaque containing a QR code providing further information about the artwork will also be included.

Since submission, amended plans have been received to relocate the proposed sculpture.

Consultations

Highway Authority (10.10.2024 and 13.11.2024): No objection. It is noted that this sculpture is to be illuminated, and a condition is requested to limit the brightness to ensure it does not cause distraction or interfere with road safety. There is also no requirement from Highways to install safeguards to protect the artwork.

Environmental Health (30.09.2024): No objection.

Network Rail (25.09.2024): An interface with Network Rail is required for the proposal. The outside party is advised that Network Rail will need to agree and supervise this proposal and that no works are to take place until agreed with Network Rail. Additional information is also provided with regards to measurements to railway tracks and the railway boundary; obligations; a Risk Assessment and Method Statement (RAMS); access to the railway; excavation and earthworks and Network Rail land; and a BAPA (Basic Asset Protection Agreement).

Representations

This application has been publicised by letters sent to 2no. neighbours. It has also been advertised by a site notice. No representations have been received.

Planning History

None relevant.

Relevant Policy

Paragraph 11 of the National Planning Policy Framework (NPPF) states that planning decisions should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan without delay; or where the development plan is absent, silent or out of date planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Paragraph 12 of the NPPF clarifies that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

The development plan in Knowsley comprises the Saved Policies of the Replacement UDP, the Core Strategy Local Plan and the Joint Waste Local Plan. The following policies are relevant to the determination of this application.

Knowsley Local Plan Core Strategy (January 2016)

Policy CS1: Spatial Strategy for Knowsley

Policy CS2: Development Principles

Policy CS6: Town Centres and Retail Strategy

Policy CS7: Transport Networks

Policy CS19: Design Quality and Accessibility in New Development

Saved Policies - Knowsley Replacement UDP (June 2006)

Policy DQ3: Gateway Sites and Corridors

Supplementary Planning Documents (SPDs)

Ensuring a Choice of Travel (September 2010)

Huyton Village Masterplan 2017 – 2028

National Policies

The National Planning Policy Framework (NPPF)

National Planning Practice Guidance (NPPG)

Article 35 Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Assessment

The main considerations for this application are:

- Principle of Development;
- Design and Visual Amenity;
- Neighbouring Amenities;
- Parking and Highway Safety;
- Biodiversity Net Gain.

Principle of Development

Policy CS1 of the Local Plan states that the spatial development for Knowsley will be achieved by, amongst others, focusing development within existing urban areas, with emphasis upon areas that are within or easily accessible from areas in need of regeneration. Priorities for the development of Knowsley to 2028 will be to, amongst others, regenerate and enhance existing residential neighbourhoods, through improvements to the public realm.

Policy CS6 of the Local Plan states that in order to enhance the vitality and viability of Knowsley's centres and maintain appropriate local service provision, the hierarchy of centres shall apply.

The application site is located within the Huyton Town Centre and has good access to the Huyton railway station, local bus routes, major road networks and local services and amenities. The proposed development would, therefore, be sustainably and appropriately located in accordance with Policy CS1 of the Local Plan. The proposed sculpture will act as a gateway to Huyton and marks the beginning of a trail of artworks that celebrate Huyton, its people and history. The proposed sculpture is therefore considered to contribute to the vibrancy and vitality of the Town Centre, in accordance with Policy CS6 of the Local Plan. The principle of the development is therefore, considered to be acceptable.

Impact upon Design and Visual Amenity

Policy CS2 of the Local Plan Core Strategy seeks to enhance local character and promote quality of place by promoting good quality design and ensuring that development respects its setting taking into account relevant design requirements, and best practice.

Policy CS19 of the Local Plan Core Strategy states that to enhance the local distinctiveness, identity and accessibility of places, new development within Knowsley will be expected to, amongst others, consider provision of landmark buildings and additional detailing at and adjacent to main gateways, movement corridors, town centres and strategic regeneration opportunities. Spaces and places should also be created as a focal point and include the provision and integration of high-quality public realm and open spaces, and public art (as appropriate).

Saved Policy DQ3 of the Knowsley Replacement UDP states that new development proposals which are within or adjacent to, or visible from, any of the key road and rail routes within Knowsley should seek to enhance the visual appearance of the route.

The Huyton Village Masterplan SPD 2017 – 2028 has four key strategic objectives which include improving routes and connections; focusing activity on key streets; improving environmental quality; and strengthening the local economy.

Paragraph 135 of the NPPF requires planning policies and decisions to ensure that developments, amongst others, establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

The proposed sculpture will form as an attractive feature which will define the appearance of the key gateway location of Huyton railway station. The public artwork will act as a gateway 'portal' and therefore forms as a key focal point within Huyton Town Centre. The proposed red coloured finish will also ensure that the sculpture appears as a highly noticeable attraction, which will clearly signpost Huyton Town Centre to arriving visitors from the railway station. The proposed sculpture also features an engaging element through a small plaque with a QR code, which the

public can scan and find out more about the artwork. The inclusion of the lighting will also be activated during the evening/nighttime, which encourages visitors to walk through the 'portal', which in turn will activate colour changes within the lights. Overall, it is considered that the proposal is a high quality and original installation that will provide a distinctive sculpture at a key gateway location. As such, the proposal would be acceptable in terms of its impact upon design and visual amenity, in accordance with the policies listed above.

Neighbouring Amenity

Policy CS19 of the Local Plan Core Strategy and Paragraph 135 of the NPPF seeks to maintain a good standard of amenity for all existing and future occupants of land and buildings.

The proposed sculpture would not be situated close to any residential dwellings and would be distanced over 11m away from the nearest neighbouring building. The existing mature trees and boundary treatments will also provide a degree of screening. Whilst lighting is proposed to the sculpture, these will be fitted to the inside perimeter and would not face towards any nearby properties. Environmental Health have also raised no objections. As such, the proposal is deemed to have an acceptable impact on the amenities of the neighbouring properties surrounding the site, in accordance with the policies listed above.

Parking and Highway Safety

Policy CS7 of the Local Plan Core Strategy states that new development will be required to be, amongst others, located and designed to prioritise accessibility and sustainable modes of travel through a choice of walking, cycling, public transport, and incorporate access for private vehicles. The Ensuring a Choice of Travel SPD (September 2010) provides the parking standards for each land use type. Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The proposed sculpture will be located within the adopted highway and adjacent to the Huyton railway line. However, the proposal will be suitably distanced from the railway track boundary and is separated by a stairway. The proposal's impact upon the railway is therefore deemed to be minimal. However, Network Rail have been consulted and notes that an interface with them is required, where they will need to agree and supervise the proposal, with no works to take place until agreed with them. Additional information has also been provided from Network Rail and their comments have been put forward to the applicant and will be included as an informative.

Highways have also raised no objections but as the proposal is to be illuminated, a condition is requested to limit the brightness to ensure it does not cause distraction or interfere with road safety. Highways originally stated that to ensure the safety of the sculpture, safeguards should be implemented to prevent vehicle strikes. However, upon further discussion, Highways have confirmed that there is no specific requirement to install safeguards to protect the artwork. Moreover, given the height and size of the sculpture, it would be highly visible to drivers, who will be able to manoeuvre their vehicles safely to avoid striking the artwork. As such, it is considered that the proposal would have an acceptable impact upon access, parking and highway safety, in accordance with the policies listed above.

Biodiversity Net Gain (BNG)

The Environment Act 2021 introduced a new mandatory requirement for Biodiversity Net Gain to ensure that most new developments increase baseline biodiversity value by a minimum of 10%. However, the Biodiversity Gain Requirements (Exemptions)

Regulations 2024 prescribe exemptions for categories of development to which biodiversity net gain does not apply. This includes development that does not impact a priority habitat and impacts less than: 25sq.m (5m by 5m) of on-site habitat and 5m of on-site linear habitats such as hedgerows.

The application site is fully hard surfaced and contains no priority habitats or on-site linear habitats which will be affected by the proposed development. The proposal is therefore considered to fall below the de minimis threshold and would be exempt from delivering BNG.

Conclusion

The principle of the proposal is considered to be acceptable. The proposed development would also have an acceptable impact upon neighbouring amenities; design and visual amenity; and parking and highway safety. The proposal is would also be exempt from delivering BNG. On this basis, the proposal complies with all relevant local and national planning policies and guidance.

Recommendation

That Planning Permission be granted subject to the following Condition(s):-

- 1) The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2) The development hereby permitted shall be carried out in accordance with the approved plans and documents listed in Schedule 1.

Reason: For the avoidance of doubt.

- 3) No materials shall be used on the proposed development other than those referred to on the approved plans / supporting documentation.

Reason: In the interests of visual amenity and to comply with Policy CS2 and CS19 of the Knowsley Local Plan Core Strategy (Adopted January 2016), Saved Policy DQ2 of the Knowsley Replacement Unitary Development Plan, (Adopted June 2006), The Huyton Village Masterplan SPD 2017 – 2028, and the National Planning Policy Framework.

- 4) The maximum luminance of the sculpture hereby approved shall not exceed 300cd/m² between dusk and dawn, as defined by official lighting up times, and 600cd/m² outside of these times, in accordance with the Institute of Lighting Engineers (ILE) Technical Note 5 'The Brightness of Illuminated Structure'.

Reason: In the interests of highway safety and amenity and to ensure compliance with saved Policy DQ2 of the Knowsley Replacement Unitary Development Plan, (Adopted June 2006).

SCHEDULE 1

Date Received	Ref. No	Version	Drawing/Document Title
19/09/2024	p2f/uk/11342 34/1527225	-	Location Plan
21/11/2024	-	-	Huyton Public Art Site HP001B 09/08/24 Scale 1:200
21/08/2024	A - 01	-	Huyton Village Public Art Trail (Portal Gateway)
21/08/2024	-	-	MaxiDEPTH Series 102 / 302 DMX controllable [Brochure]

Signed Case Officer¹: **Kim Vo**

**Signed Authorising
Officer²:** **K Foster**

Date: **27 November 2024**

Informatives

Network Rail

1. An interface with Network Rail is REQUIRED and Network Rail will need to agree and supervise this proposal, with no works to take place until agreed with Network Rail.

The operational railway presents risks/issues that are different/unique to the risks posed by works taking place adjacent to non-railway undertaker land. Works on this site therefore must be undertaken with the supervision of Network Rail via the ASPRO (Asset Protection and Optimisation) team to ensure that the works on site do not impact the safe operation, stability, integrity of the railway and its boundary. The LPA/developer are advised that unauthorised works adjacent to the railway boundary could impact the operation of nationally significant infrastructure and the applicant would be liable for any and all damages and costs caused by any works undertaken. Therefore, the developer is requested to ensure that the development meets with Network Rail requirements for works/developments adjacent to the railway boundary which include planning material considerations as well as obligations specific to the railway undertaker. The interface is via a Network Rail BAPA (Basic Asset Protection Agreement). The developer is advised that the works must not commence on site (even if planning permission is granted) until agreed with Network Rail. The applicant will be liable for all costs incurred by Network Rail in facilitating, reviewing this proposal.

For future reference, it is imperative developers/applicants consult neighbouring/affected statutory undertakers in advance of any construction work, to identify and mitigate potential risks to both sites including people using or working on the sites, in line with CDM 2015 and HSW 1974 legislation. Network Rail's ASPRO team's role is to support external parties in identifying risks associated with construction near the railway and mitigating these in advance of work starting. Most insurance policies include clauses relating to

¹ I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed

² I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed

consultation with statutory undertakers, and external parties who do not consult appropriately in advance may find their insurance policy becomes invalid.

Measurements to railway tracks and railway boundary

When designing proposals, the developer and council are advised, that any measurements must be taken from the operational railway/Network Rail boundary and not from the railway tracks themselves. From the existing railway tracks to the Network Rail boundary, the land will include critical infrastructure (e.g. cables, signals, overhead lines, communication equipment etc) and boundary treatments (including support zones, vegetation) which might be adversely impacted by outside party proposals unless the necessary asset protection measures are undertaken. No proposal should increase Network Rail's liability. To ensure the safe operation and integrity of the railway, Network Rail issues advice on planning applications and requests conditions to protect the railway and its boundary.

Obligations

Properties adjoining or in the vicinity of the railway are frequently the subject of obligations, rights, exceptions and reservations for the benefit of Network Rail's land and railway. The applicant must review the title to their property to see whether any such obligations etc exist and ensure that there is no non-compliance or breaches of them or any interference with or obstruction of Network Rail's rights and reservations. If the proposed development would not comply with or would breach any of the terms of the conveyance, the developer must revise his proposals.

RAMS

The developer is to submit directly to Network Rail asset protection, a Risk Assessment and Method Statement (RAMS) for all works to be undertaken within 10m of the operational railway under Construction (Design and Management) Regulations, and this is in addition to any planning consent. Network Rail would need to be re-assured the works on site follow safe methods of working and have also taken into consideration any potential impact on Network Rail land and the existing operational railway infrastructure. Builder to ensure that no dust or debris is allowed to contaminate Network Rail land as the outside party would be liable for any clean-up costs. Review and agreement of the RAMS will be undertaken between Network Rail and the applicant/developer.

Access to Railway

All roads, paths, boundaries or ways providing access to any part of the railway undertaker's land both temporary and permanent, must remain open and unblocked (24/7, 365 – around the clock) both during construction works and as a permanent arrangement.

- The proposal must not encroach onto any Network Rail access road, paths or ways of access to any part of Network Rail land. This also includes emergency vehicle's ability to access and exit Network Rail land.
- The proposal construction works must not prevent Network Rail from accessing its land.

Excavation and Earthworks and Network Rail land:

The applicant will agree all excavation and earthworks within 10m of the railway boundary with Network Rail. Network Rail will need to review and agree the works to determine if they impact upon the support zone of our land and infrastructure as well as determining relative levels in relation to the railway. Network Rail would need to agree the following:

- Alterations to ground levels
- De-watering works
- Ground stabilisation works
- Works to retaining walls
- Construction and temporary works
- Maintenance of retaining walls

- Ground investigation works must not be undertaken unless agreed with Network Rail.
- Confirmation of retaining wall works (either Network Rail and/or the applicant). Prior to the commencement of works on site the applicant must confirm with Network Rail if there are any retaining walls/structures and the applicant must interface with Network Rail to ensure that no retaining structures are impacted on a permanent basis by their proposal.
- Alterations in loading within 15m of the railway boundary must be agreed with Network Rail.
- For works next to a cutting or at the toe of an embankment the developer / applicant would be required to undertake a slope stability review.

Network Rail would need to re view and agree the methods of construction works on site to ensure that there is no impact upon critical railway infrastructure. No excavation works are to commence without agreement from Network Rail. The council are advised that the impact of outside party excavation and earthworks can be different depending on the geography and soil in the area. The council and developer are also advised that support zones for railway infrastructure may extend beyond the railway boundary and into the proposal area. Therefore, consultation with Network Rail is requested. Any right of support must be maintained by the developer.

BAPA (Basic Asset Protection Agreement)

As the proposal includes works which could impact the existing operational railway and in order to facilitate the above, a **BAPA** (Basic Asset Protection Agreement) will need to be agreed between the developer and Network Rail. The developer will be liable for all costs incurred by Network Rail in facilitating this proposal, including any railway site safety costs, possession costs, asset protection costs / presence, site visits, review and agreement of proposal documents and any buried services searches. The BAPA will be in addition to any planning consent.

All new enquiries will need to be submitted via the **Asset Protection and Optimisation - Customer Portal**. Link to ASPRO ACE Portal [ASPRO Network Rail Implementation \(oraclecloud.com\)](https://oraclecloud.com). From there, the client can create an account and submit their enquiry. Enquiry will then be assigned to one of the Asset Protection team to progress. The assigned team member will then be in a position to review and comment on any submissions from the outside party.

Going forward in order for Network Rail to spend any time reviewing any submissions, provision of any asset information, attending any further meetings, assisting with discharging any planning conditions set etc, Network Rail will require the return of a signed BAPA (Basic Asset Protection Agreement) and relevant payment/ PO as noted in the estimate sent. Network Rail is a publicly funded entity and all outside party works, which these are, are cost recoverable as dictated to us by the ORR. This includes any and all documents under the discharge of conditions which must be submitted to Network Rail for review and agreement by the developer under the BAPA.

The local planning authority (LPA) are not responsible for the safe operation of the railway, or our assets and the issues raised by the developer/applicant will ultimately need to be agreed by Network Rail engineering to ensure the proposed development does not interfere with the safety of the railway.