

**CULTURE, RECREATION &
TOURISM CABINET
MEMBER MEETING**

Agenda Item 61

Brighton & Hove City Council

Subject: Ghost Train – Public Art
Date of Meeting: 7 February 2012
Report of: Strategic Director: Communities
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Wards Affected:

1. SUMMARY AND POLICY CONTEXT

- 1.1 As part of the New England Quarter development a programme of public art commissions were designed and fabricated by a team of two artists and a landscape designer, funded by Section 106 contributions. All of these commissions have been successfully installed except one piece of sculpture which is due to be installed in the urban greenway where the path meets the old railway bridge. This piece – The Ghost Train - has planning permission and has been built by local metalworker Jon Mills and is waiting to be installed. As the piece overhangs Network Rail owned the council need to enter into a licence with Network Rail before the piece can be installed.
- 1.2 This report describes the history of the council's commitment to the public art scheme and the implications of the council signing the licence.

2. RECOMMENDATIONS:

- 2.1 That the Cabinet Member gives delegated authority for the Strategic Director: Communities to:
- a) enter into an agreement with the artist and Quoin Estates and Developments Ltd to provide for
 - (i) the ownership of The Ghost Train to be transferred for nil consideration to the Council and
 - (ii) the Council to be indemnified in relation to any costs it incurs as a result of entering into the Licence with Network Rail referred to in b) below; and
 - b) enter into a licence with Network Rail to enable The Ghost Train to be installed on the listed railway bridge over New England Road when he is satisfied with the detailed provisions of that licence.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The New England Quarter public art scheme was commissioned in 2004 using percent for art monies on the relevant blocks within the overall development. The artist team comprising of Steve Geliot, Jon Mills and Fiona Atkinson created a strategy for integrated public art interventions and also for areas of influence throughout the development. The sums attached to the strategy were recommended by planning officers in conjunction with the overall planning applications and a steering group, including council officers, artists, developers, architects, the head of a local trading association and of the local primary school was created and appointed to oversee the implementation of the strategy. For this particular piece extra funds were also raised from the lottery to cover additional costs associated with fabrication and installation.
- 3.2 The piece takes the traditional form of a train to reflect the historic usage of the now disused railway bridge which runs over New England Road. The artwork has been created specifically for this Grade 2 listed bridge, taking the form of a silhouetted outline of a contemporaneous steam locomotive, the Jenny Lind. The work will be fabricated in a method which emulates a Victorian etching, which has been inspired by the bridge and will ensure that the work sits well within its surroundings.
- 3.3 The concept behind the piece is that the train looks as if it is barely there and the lighting will fade in and out so the form of the train appears and disappears creating a ghostly presence. As the piece will be lit from below, the additional lighting will be unobtrusive for vehicles passing under the bridge. This will be an accessible and popular addition to the area and will encourage people to use the new green corridor running through the New England Quarter site.
- 3.4 Jon Mills, who has designed the artwork, is a renowned metalworker who has work in the public realm all over the UK. He has made two stretches of railings which are situated very near to the proposed site for the sculpture, plus some large scale pieces representing railway tools along the greenway itself thus creating a visual link and continuity across areas of the city.
- 3.5 The Ghost Train was always going to be the last piece to be installed as the artist team needed to wait until the Urban Greenway was built and landscaped and all agreements were in place with Sainsburys (the greenway land owner), Network Rail and Brighton & Hove City Council regarding the on-going maintenance of the space.
- 3.6 Planning permission was submitted in late 2008 and granted in 2009, these are attached at Appendix One. Usual consultation was conducted as part of the planning process with public notices, letters to residents and consultation with the Conservation Action Group and the Heritage Railway Association.

- 3.7 The greenway opened to the public in 2011 and since then Quoin Estates and Developments Ltd (QED) has been negotiating the licence with Network Rail. However, it is now a requirement of Network Rail that the licence is entered into by the Council as, in Network Rail's view, it is only the Council that will be in a position to give acceptable indemnities. In July QED approached Brighton & Hove City Council about completing the licence with Network Rail and offered to pay the one-off licence fee of £1,300. Council officers are currently considering the terms of the draft licence but legal and financial advice received stresses that, in order that the Council's insurance policies cover the artwork once installed, it is necessary for ownership of, and maintenance responsibilities for, The Ghost Train to be transferred to the Council. The Council will therefore need to enter into an agreement with the owner of the artwork to enable ownership to be transferred to it (at nil cost) and for QED to agree to indemnify the Council against any costs the Council incurs as a result of entering into the licence with Network Rail.
- 3.8 The artwork is now made and ready to be installed, the support beam for the work is already on site and the artist is ready to install the work once the licence has been signed.

4. CONSULTATION

- 4.1 During the planning process there has been consultation with residents, ward councillors, conservation and Heritage Railway Association.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications

Any fees associated with the creation of the licence will be covered by QED. The artwork would be included in the Council's existing public liability insurance policy at no extra cost, although this would not cover vandalism. Future maintenance costs are expected to be minimal, as detailed in appendix 3 and could, if necessary, be funded from the Public Art Maintenance budget held jointly by the Section 106 Officers and Arts & Cultural Projects Team. However, it is intended that where possible, any costs incurred will be recharged to QED.

Finance Officer Consulted: Michelle Herrington

24/01/12

5.2 Legal Implications

As referred to in the body of the Report the installation of the artwork on Network Rail land will require a licence to be granted by Network Rail to the Council and, prior to the completion of this licence, for the Council to enter into an agreement with the artist and QED to enable the ownership of the artwork to be transferred to the Council and for the Council to obtain satisfactory indemnities.

No adverse human rights implications are considered to arise from this Report.

Lawyer consulted: Hilary Woodward 25 January 2012

- 5.3 Equalities Implications:
Public art is free and accessible to all to view and engage with.
- 5.4 Sustainability Implications:
There are no sustainability implications inherently in the installation of the piece.
- 5.5 Crime & Disorder Implications:
By populating the development of the Urban Greenway was designed to create a new, safe, green space for the city and a through route that would increase footfall and discourage antisocial behaviour. The artworks and interesting features are part of this strategy.
- 5.6 Risk and Opportunity Management Implications:
Risk analysis has informed the design, fabrication and installation plans for the piece of work in terms of weight and positioning. The planning process covered risk analysis in terms of potential highways impact.
- 5.7 Corporate / Citywide Implications:
This will be a key piece of artwork for the city which, alongside the pieces across the city as a whole, will help to maintain the reputation of Brighton and Hove as a leading cultural destination.

SUPPORTING DOCUMENTATION

Documents in Members' Rooms

None

Background Documents

Appendix One: Planning Application and Permission
Appendix Two: Draft Licence
Appendix Three: Maintenance Schedule