

|  |
| --- |
| **Application Decision** |
| **by Richard Holland** |
| **Appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 21 February 2023** |

# Application Ref: COM/3311421

**BLACKHEATH COMMON, LONDON BOROUGH OF LEWISHAM**

Register Unit No: CL 11

Commons Registration Authority: London Borough of Lewisham

* The application, dated 22 September 2022, is made under Article 12 of the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967 for consent to construct works on common land.
* The application is made by the London Borough of Lewisham.
* The works comprise the creation of a landscaped play area consisting of natural soft play features in an area covering 889m². The works include a 28m x 1.8m crushed stone path, planting, mirrors, sunken informal seating area (11-12m diameter) with gabion baskets and boulders, 3 gabion seats, dry riverbed (11-12m x 2m), play logs with climbing branches, mounding, low timber decked bridges, area for willow tunnel, sculptures or den and musical play.

# Decision

1. Consent is granted for the works in accordance with the application dated 22 September 2022 and the plan submitted with it subject to the condition that the works shall begin no later than three years from the date of this decision.
2. For the purposes of identification only the location of the works is shown outlined in red on the attached inset plan.

# Preliminary Matters

1. I have had regard to Defra’s Common Land Consents Policy Guidance (Defra November 2015) in determining this application, which has been published for the guidance of both the Planning Inspectorate and applicants. However, every application will be considered on its merits and a determination will depart from the guidance if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the guidance.
2. This application has been determined solely on the basis of written evidence.
3. I have taken account of the representation made by Natural England (NE).
4. I am required by section 39 of the 2006 Act to have regard to the following in determining applications under Article 12 of the 1967 Act:-
	1. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
	2. the interests of the neighbourhood;
	3. the public interest (Section 39(2) of the 2006 Act provides that the public interest includes the public interest in; nature conservation; the conservation of the landscape; the protection of public rights of access to any area of land; and the protection of archaeological remains and features of historic interest.); and
	4. any other matter considered to be relevant.

# Reasons

## The interests of those occupying or having rights over the land

1. The applicant has advised that the common is owned by the Earl of Dartmouth. The landowner has been consulted about the application and has made no objection. There are no rights of common registered. I am satisfied that the works will not harm the interests of those occupying the land and the interests of those having rights is not at issue.

## The interests of the neighbourhood and the protection of public rights of access

1. The interests of the neighbourhood test relates to whether the works will impact the way the common land is used by local people. The works will create a natural style play space, using a derelict piece of land, for children to play and their carers to meet. The applicant has identified a shortage of play areas in the area and has advised that planning permission (DC/22/128558) has been granted for the works.
2. I note that the works are supported by the local community and will provide a valuable amenity that is currently lacking in this location. I am satisfied that the works will improve recreation on the common, particularly for young children and their carers, and will not interfere with other ways in which the common is used by local people, such as access. I conclude that the works will benefit the interests of the neighbourhood and will maintain public rights of access.

## Conservation of the landscape and nature conservation interests

10. The applicant explains that the works cover a triangular area of currently derelict land, at the edge of the common and are part of a scheme to regenerate former changing rooms. The play area is designed from natural and reclaimed materials including logs, timber and stone which can be removed or interchanged as required. The works, which include the retention of existing trees and additional planting, will help create a more diverse habitat, screen an existing building and are in keeping with the landscape while being barely visible from the common.

11. NE does not object to the works and comments that there are potential benefits to nature conservation as the current levels of biodiversity could be improved following completion of planned works to introduce a variety of plants and plant fruit trees and seeds sourced locally from the common. I conclude that the works may offer some benefits to nature conservation interests and are likely to enhance the landscape value of the common.

## Archaeological remains and features of historic interest

1. Historic England did not wish to offer any comments on the proposal. I am satisfied that there is no evidence before me to indicate that the works will harm archaeological remains and features of historic interests.

# Conclusion

1. I conclude that the works are likely to benefit the interests of the neighbourhood, public rights of access, nature conservation and the landscape and will not harm the other interests set out in paragraph 6 above. Consent for the works is therefore granted subject to the condition set out at paragraph 1.

***Richard Holland***

