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| **Application Decision** |
| **by Harry Wood** |
| **Appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date:** 31 August 2023 |

# Application Ref: COM/3321502

**PECKHAM RYE COMMON, LONDON BOROUGH OF SOUTHWARK**

Register Unit No: CL 24

Commons Registration Authority: London Borough of Southwark

* The application, dated 26 April 2023, is made under Article 12 of the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967 (the 1967 Act) for consent to construct works on common land.
* The application is made by the London Borough of Southwark.
* The application seeks consent for the installation of structures to facilitate three separate unfenced temporary events permitted under Article 7 of the 1967 Act for fixed periods of time. The events are (1) Kidzfun Childrens Fair from 31 July to 7 August 2003, (2) Friends of Peckham Rye Park Summer Fete on 2 September 2023 and (3) Zippo’s Circus from 24 September to 2 October 2023. The structures include marquees, tents, stalls, site offices, a big top tent and box office, catering units, welfare facilities, staff accommodation (caravans) and supporting vehicles.

# Decision

1. Consent is granted for the works associated with events (2) and (3) in accordance with the application dated 26 April 2023 and the plan submitted with it, subject to the following conditions:
2. no more than one tenth of the common shall be enclosed at any one time;
3. the common land shall be fully reinstated within one month of the completion of each event.
4. For the purposes of identification only the location of the works is shown on the attached plan.
5. For the avoidance of doubt, consent for the works associated with event (1) is not granted for the reasons set out below.

# Preliminary Matters

1. The application is not retrospective as it was made in advance of all three events. However, at the time of writing event (1) has already taken place. As a matter of principle, there is no good reason to provide consent for something which no longer exists. It follows that the outcome for the event (1) works must be that the consent is not granted. Accordingly, the remainder of my decision relates solely to the works associated with events (2) and (3), to which I refer from this point as ‘the events’ and ‘the works’.
2. 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.
3. This application has been determined solely on the basis of written evidence.

1. I have taken account of the representations made by Natural England (NE), Historic England (HE) and the Open Spaces Society, none of which object to the proposed works.
2. I am required by section 39 of the Commons Act 2006 (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 landowner is the applicant, and it follows that the proposed works are in the landowner’s interests.
2. The applicant has been unable to locate a common land register for Peckham Rye Common (CL24) but the published database of registered common land indicates that there are no registered rights of common over it and I am satisfied that this is likely to be the case.
3. The Round Café at Strakers Road, which runs through the common near the application site, has an interest in the works as a leaseholder and was consulted about the proposed works. The leaseholder did not comment and I am satisfied from the application plan that the café lies outside of the proposed works areas.
4. I am satisfied that the works will not harm the interests of those occupying the land and the interests of those having rights over it.

## 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 on the way the common land is used by local people and is closely related to the interests of public rights of access.
2. The applicant explains that Peckham Rye has a long history of successfully hosting events and that the application events have taken place on the common previously with good local support. The applicant further explains that the events promote and encourage the use and enjoyment of the common by local residents, as well as attracting a wider audience in accordance with the Borough’s Outdoor Events Policy (April 2023).
3. I consider that the events fall within the types of events permitted by the 1967 Act and will promote the use and enjoyment of the common both for nearby residents and the wider public. The events’ short durations and the absence of any fencing proposals will limit the impact on public rights of access over the common and there is no evidence that the structures associated with the events will materially impact on public access or on the ability of the public to enjoy the rest of the common.
4. I conclude that the works will benefit the interests of the neighbourhood by facilitating an established recreational use of the common and that they will not unduly harm public rights of access.

## Nature Conservation and conservation of the landscape

1. NE confirms that the site is not subject to any statutory or non-statutory designations for nature conservation and that in view of the extent, location and duration of the proposals it has no objections.
2. The applicant explains that the event locations are considered to be in a low ecological sensitive area but the protection of habitat and wildlife will be paramount to any event planning. Southwark’s Ecology, Parks and Arboriculture officers will advise on any necessary protection measures and the events will not go ahead if any officer is of the opinion that significant and unacceptable damage to habitat or wildlife will arise.
3. I consider that any negative visual impact arising from the works will be limited and of short duration The applicant advises that the event sites are designed to be compact, neat and orderly and that event organizers are required by licence to carry out ground re-instatement works promptly, which can be secured by attaching a suitable condition to this consent.
4. I am satisfied that the works will not cause unacceptable harm to nature conservation and landscape interests.

## Archaeological remains and features of historic interest

1. HE confirms that it has no comments to make about the application. The applicant advises that the event locations are not within an archaeological priority area and that no subterranean excavation works are proposed for the set up and operation of the event sites.
2. There is no evidence before me to indicate that the works will harm archaeological remains and features of historical interest.

# Conclusion

1. I conclude that the works will facilitate events for local and wider recreational enjoyment of the common and will not unduly impact the other interests set out in paragraph 8 above. Consent for the works is therefore granted subject to the conditions set out at paragraph 1.

***Harry Wood***

