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# Application Decision

by **Richard Holland**

Appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: **16 January 2017**

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**Application Ref: COM/3163225**  
**London Fields, London Borough of Hackney**

Register Unit No: CL20

Commons Registration Authority: The London Borough of Hackney.

- The application, dated 10 November 2016, 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 Hackney.
- The works are to install a dedicated outdoor gymnasium area at the southern end of London Fields and comprise:
  - i. new wet pour surfacing measuring 16.05 metres long by 3.4 metres wide (54.57m<sup>2</sup>);
  - ii. 16.15m<sup>2</sup> floor exercise area;
  - iii. pull-up bars with space for five simultaneous users; and
  - iv. one set of parallel bars.

## Decision

1. Consent is granted for the works in accordance with the application dated 10 November 2016 and the plans 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 in red on the attached plan.

## Preliminary Matters

3. Article 7 of the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967 provides that a local authority may in any open space provide and maintain a variety of facilities for public recreation subject to conditions. Article 7(1)(a) (iii) specifically refers to the provision and maintenance of gymnasium. Article 12 provides that in the exercise of powers under Article 7 the local authority shall not, without the consent of the Minister, erect, or permit to be erected, any building or other structure on any part of a common.
4. I have had regard to Defra's Common Land consents policy<sup>1</sup> 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 policy if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the policy.

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<sup>1</sup> Common Land consents policy (Defra November 2015)

5. This application has been determined solely on the basis of written evidence.
6. I have taken account of the representations made by Natural England (NE) and the Open Spaces Society (OSS), neither of which object to the application.
7. I am required by section 39 of the Commons Act 2006 to have regard to the following in determining applications under Article 12 of the Greater London Parks and Open Spaces Order 1967:-
  - a. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
  - b. the interests of the neighbourhood;
  - c. the public interest;<sup>2</sup> and
  - d. any other matter considered to be relevant.

## **Reasons**

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

8. London Fields is owned and managed by the applicant; the London Borough of Hackney Council (the Council). There are no registered rights of common. I consider therefore that the works will not harm the interests of persons occupying or having rights over the land.

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

9. The interests of the neighbourhood test relates to whether the works will impact on the way the common land is used by local people. London Fields is a well-used public space and the Council estimates that on a sunny summer weekend day there can be up to 10,000 visitors. The proposals are to remove existing gymnasia (gym) facilities on the eastern side of the common and install the new equipment within the old hard-surfaced paddling pool area at the comparatively under-used southern end of the common. The Council hopes that the new facilities will encourage legitimate public use of the area and discourage anti-social behaviour by street drinkers who gather there. I consider this to be a positive move that is in the interests of all legitimate users of London Fields.
10. The current gym equipment (1 x parallel bars, 1 x pull-up bars and 1 x monkey bars) has been in place at the eastern site for some time. However, its location within a children's play area has led to a conflict of interests between playing children and older gym users. The Council therefore proposes to remove the equipment so that the eastern site can be a dedicated play area and install the new equipment at the southern site to create a dedicated gym area. I consider this separation to be in the interests of all users, many of whom are likely to be local people.
11. The two new pieces of gym equipment and the exercise area will be installed within an area already given up to hard-standing so there will be no loss to the public of any green space. No fencing is proposed to separate the equipment from the wider common so no new impediment to public access will be created. The Council has advised that the exercise area will be fully accessible, with level access to the equipment compliant with the Disability Discrimination Act. I consider that the proposals will have no detrimental impact on public rights of access and may encourage visitors to an area of the common that the Council wishes to be more fully used.

### *Nature conservation*

12. NE advised that it does not see the works as having a detrimental effect on landscape, access or the biodiversity of the common as a whole. There is no evidence before me which leads me to think that the works will harm any statutorily protected sites or other nature conservation interests.

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<sup>2</sup>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.

### *Conservation of the landscape*

13. The proposals constitute a small net reduction in individual pieces of gym equipment from three to two and the removal of the eastern site equipment will generally balance out the introduction of new equipment at the southern site. I consider it unlikely that the new equipment, which will not exceed a height of 2.6 metres, will detrimentally affect landscape interests to a significant degree. Indeed, the resurfacing element should actually bring some visual improvement as the Council has advised that the existing hard-standing is in a poor state of repair. I conclude that landscape interests will not be so unacceptably affected that consent should be refused.

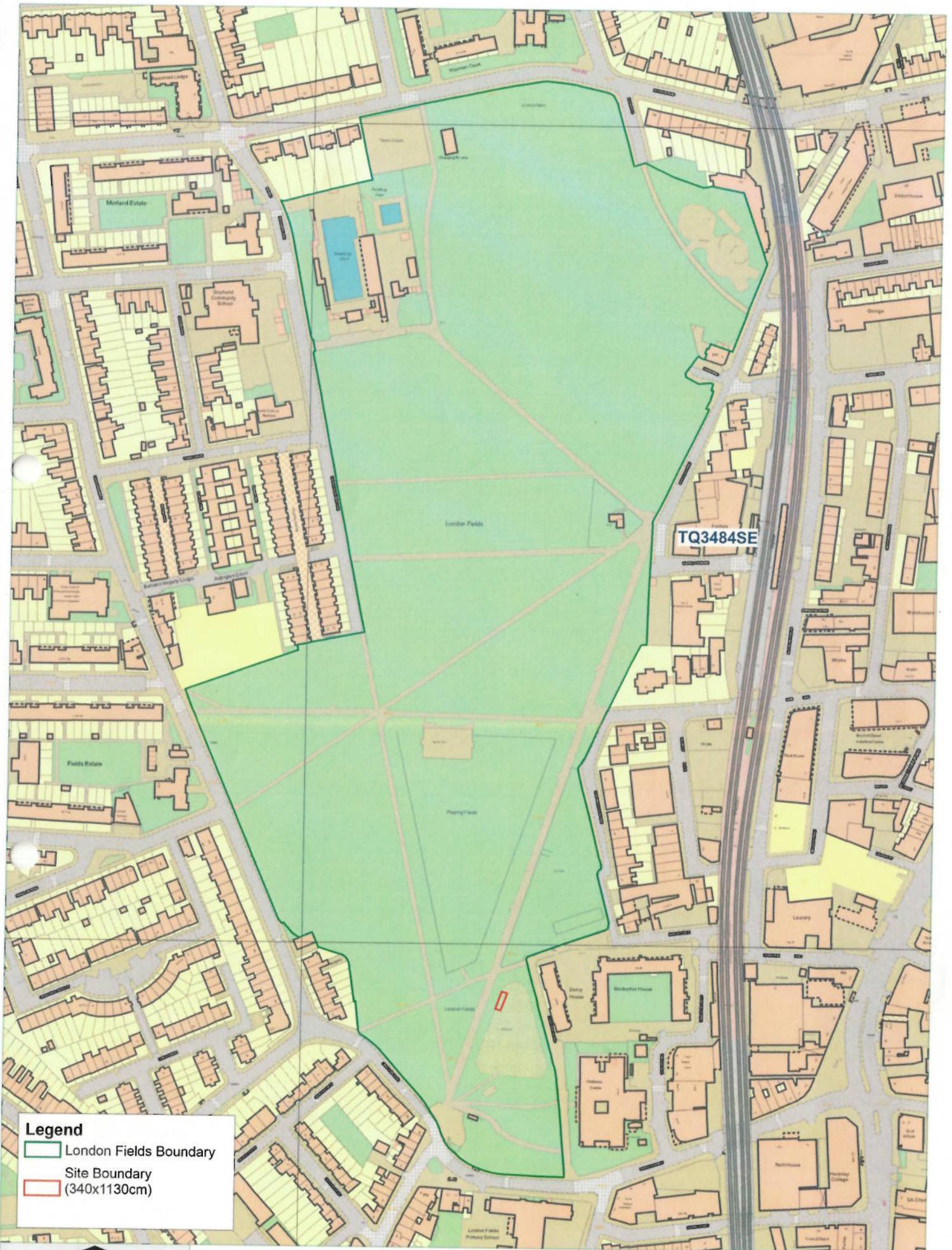
### *Archaeological remains and features of historic interest*

14. There is no evidence before me to suggest that the works will unacceptably harm any archaeological remains or features of historic interest.

### **Conclusion**

15. For the reasons set out above I conclude that the works are a facility that a local authority may, under Article 7, provide and maintain for persons resorting to the open space and that they will not unacceptably harm the interests set out in paragraph 7 above. I conclude that consent for the works should be granted, subject to the condition set out at paragraph 1 above.

**Richard Holland**



**Legend**

- London Fields Boundary
- Site Boundary (340x1130cm)

**NORTH**

Scale: 1:2,000 at A3

**London Fields  
Location and Site Plan**



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Produced by: Corporate GIS  
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