
Application Decision

by Richard Holland

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

Decision date: 30 June 2017

Application Ref: COM/3170969

Clapham Common, London Borough of Lambeth

Register Unit No: CL73

Commons Registration Authority: The London Borough of Lambeth.

- The application, dated 24 February 2017, 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 Transport for London for the London Borough of Lambeth (the Council).
- The works to develop the rotunda building at the south east corner of the common comprise:
 - i. erection of a ground floor extension, roof extension (over existing rotunda) and associated works to enable use of the rotunda as a café and/or restaurant and exhibition space; and
 - ii. erection of a temporary timber hoarding structure (approximately 2.4m in height and 87.7m in length) around the site enclosing an area of 511square metres for a period of up to 12 months.

Decision

1. Consent is granted for the works in accordance with the application dated 24 February 2017 and the plans submitted with it, subject to the following conditions:-
 - i. the works shall begin no later than three years from the date of this decision; and
 - ii. the temporary hoarding shall be removed within one month of completion of the work.
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 1967 Act 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)(d) specifically refers to the provision of meals and refreshments of all kinds to sell to the public. 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 also had regard to Defra's Common Land consents policy¹ 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.
5. Planning permission for the development of the rotunda was granted on 7 December 2015 (Application No. 15/04980/FUL).
6. This application has been determined solely on the basis of written evidence.
7. 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.
8. 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 1967 Act:-
 - 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;² and
 - d. any other matter considered to be relevant.

Reasons

The interests of those occupying or having rights over the land

9. Clapham Common is owned and managed by the London Borough of Lambeth Council, the applicant. There is nothing in the commons register to indicate that there are any registered rights over the 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

10. The interests of the neighbourhood test relates to whether the works will impact on the way the common land is used by local people. The rotunda building is situated at the edge of the common and adjacent to a busy traffic junction. The Council says that as a disused building it attracts graffiti and antisocial behaviour and describes the site as an undesirable portion of the common. For these reasons I consider it unlikely to be an area of the common that is well-used by the public.
11. Historically, the building and the deep level air-raid shelter beneath it have been used to house both military personnel and civilians. The Council wishes to open the shelter up to public access as a cultural attraction via tours operated by the London Transport Museum (LTM) and to establish a commercial above ground café/restaurant to help fund the project. The building's conversion to a café and/or restaurant is consistent with the '*provision of meals and refreshments of all kinds to sell to the public*' and I consider that the proposed café use is likely to add to people's enjoyment of the common. I further consider that establishing a local cultural attraction is likely to help bring this area of the common back into legitimate public use and in this respect will be in the interests of the neighbourhood.

¹ Common Land consents policy (Defra November 2015)

²Section 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.

The public interest

The protection of public rights of access

12. It is proposed to erect a 2.4m high hoarding around the building, with the eastern section alongside 'The Avenue' highway. This will create a 511 square metre enclosure at the edge of the common. Whilst this may be a little used area of the common, public access to the enclosed land will nevertheless be completely prevented during the period of development works, which is expected to be 12 months. However, I am satisfied that excluding the public from the work site in this way is necessary for health and safety reasons and that the extent of the enclosure, which is to be positioned close to the rotunda building, does not exceed what is reasonable. The hoarding will be removed as soon as possible following completion of the works, which can be ensured by attaching a suitable condition to the consent. I consider that the enclosure will not significantly harm public access interests in the long term and that, once operational, the new café/restaurant and exhibition facilities will encourage greater public access to this area of the common.

Nature conservation

13. NE advised that it does not see the works as having a detrimental effect on 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.

Conservation of the landscape

14. The rotunda building is a Grade II listed structure situated in a conservation area. It was built during World War 2 as a deep level air raid shelter and the above ground section has been a feature in the Clapham Common landscape for 75 years. Its disuse for any purpose and lack of upkeep in recent times has been detrimental to its appearance, as has the graffiti it has attracted. The proposed extensions are modest in scale and sensitively designed and are in keeping with the existing rotunda, most of which will remain visible once the works have been carried out. I consider that the Council's plans to bring the rotunda back into use will improve its condition and appearance and will benefit the landscape.

Archaeological remains and features of historic interest

15. The rotunda is itself a feature of historic interest. I consider that the works will protect the structure from falling into disrepair and that the proposed exhibition element will benefit the public interest in the history of the site. There is no evidence before me to suggest that the works are likely to harm any archaeological remains at the site.

Conclusion

16. I conclude that the works are in relation to 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 8 above. Indeed, the works are likely to benefit the public interest in rights of access and the protection of the landscape and features of historic interest. Consent for the works should therefore be granted, subject to the conditions set out at paragraph 1 above.

Richard Holland



Transport for London

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Commercial Development
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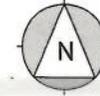


Clapham Common Boundary



Development Site

Clapham Common Development Site



A4 Landscape

Date : Jan 2017

Initial : REM

File : PAR

Scale : 1/1250 at A4

