



## Application Decision

**by Richard Holland**

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

**Decision date: 13 December 2017**

**Application Ref: COM/3185385**

**Wandsworth Common, London Borough of Wandsworth**

Register Unit No: CL 32

Commons Registration Authority: London Borough of Wandsworth

- The application, dated 25 September 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 for consent to construct works on common land.
- The application is made by the London Borough of Wandsworth.
- The works are to refurbish a multi-use games area (MUGA) with a new playing surface with multi-use goals and comprise:-
  - (i) 108.4 m in length and 3.6m in height (side adjacent to train lines 4.5 m in height) fencing around the whole MUGA, which is 685 m<sup>2</sup>, including three gates;
  - (ii) a permeable Breedon gravel path running along the southern fence to connect the two public access gates;
  - (iii) a small lockable cabinet installed against the fence to house a timer switch for a passive infrared sensor (PIR sensor);
  - (iv) 20m in length, 2m in height temporary Heras fencing around a temporary storage compound covering an area of 24 m<sup>2</sup>;
  - (v) 4 floodlight columns up to 8 m in height to support a total of 8 (250w) floodlights to illuminate the MUGA.

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### Decision

1. Consent is granted for the works in accordance with the application dated 25 September 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. all temporary works shall be removed and the common restored within one month of full completion of the works.
2. For the purposes of identification only the location of the works is shown in outlined in red and purple 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 ("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 12 of the 1967 Act 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 Guidance<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 guidance if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the guidance.
5. This application has been determined solely on the basis of written evidence.
6. I have taken account of the representations made by Janet Clark, Director of Ethos at the Dolphin School and Natural England (NE).
7. I am required by section 39 of the 2006 Act 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. Wandsworth common is owned and managed by the applicant, the London Borough of Wandsworth. There are no rights of common registered. I am satisfied that the works will not harm the interests of those 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. The existing MUGA is in a dilapidated condition, with both the fencing and tarmac surface needing refurbishment. The facility is accessible throughout the year and located in a well-used and popular area next to a nursery and two playgrounds. The nearby playground means that the MUGA is used by younger children. However, use of the MUGA for sporting recreation is limited because of its uneven surface and inadequate fencing. The applicant confirms that the works have local support. The

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<sup>1</sup> Common Land Consents Policy Guidance (Defra November 2015)

<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.

works have been granted planning permission with conditions (Application Number 2017/1900).

10. The improvements will include markings and apparatus for basketball, football and netball which are intended to extend the use of the MUGA to local schools and the wider community. The works will allow the MUGA to be used in all weathers in response to concerns about nearby grass pitches becoming unusable in the winter. The replacement fencing will include three gates consisting of a single pedestrian gate and a double vehicular gate to maintain public access. A further lockable gate will serve as an emergency exit and separate access for the nursery. The gates will allow direct access, including disabled access, to the MUGA from the common. A permeable gravel path will facilitate access around the MUGA.
11. In response to a request to provide transportable netball goal posts, markings and a lockable cabinet for storing the posts the applicant advised that the MUGA will include markings for netball and that the posts and cabinet could possibly be provided. However, while neither the posts nor the cabinet are a major component of the proposed works they do not form part of the current application so I cannot take them into account.
12. The temporary compound will be fenced with 2 m high anti-climb steel panels for a six week period and is needed to minimise construction traffic and to house the contractor's welfare unit. As the temporary works will be removed upon completion of the refurbishment works I do not consider that that they will unduly impact on public rights of access or the interests of the neighbourhood.
13. I agree that there is a need to refurbish the existing MUGA to meet the needs of the wider community. The facility has local support and the improvements are likely to increase opportunities for sport and recreation and therefore use of the common by local people. I consider that the access gates and gravel path are likely to improve access, particularly disabled access, to the MUGA. I conclude that the works will benefit the interests of the neighbourhood and the protection of public rights of access by improving the way the common is currently used for recreation and access.

#### ***Nature conservation***

14. NE in response to the consultation commented that it did not see the works as having a detrimental effect on either landscape, access or the biodiversity of the common as a whole. In view of NE's comments I am satisfied that the works will not harm nature conservation interests.

#### ***Conservation of the landscape***

15. The applicant explains that the visual impact of the refurbished MUGA will be similar to the existing MUGA in overall appearance. The replacement fence will be dark green which is considered the least visible colour against a background of buildings and trees throughout the year. One small tree will be removed to accommodate the refurbishment, and a tree protection plan will avoid damage to retained trees. The fencing will be of a similar height to present fencing. The refurbishment includes 4 floodlight columns. By its nature floodlighting the MUGA will of course be noticeable. However, the planning permission conditions restrict the use of the floodlights and baffles will be fitted to prevent light spillage to surrounding areas. The floodlighting will not therefore have an unacceptable impact on the appearance of the common.

16. The temporary compound will be fenced with steel panels and screened with a green material to mitigate the visual impact. The temporary works will be in place for a period of 6 weeks and will be removed upon completion of the works.
17. I consider that the refurbishment works to the MUGA are sympathetic to its surroundings and will help improve the appearance of the common in this location. I do not consider that the temporary works will have a significant or lasting impact on the common. I am satisfied that the works will conserve the landscape.

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

18. 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**

19. I conclude that the works will not harm the interests set out in paragraph 7 above and that they are works that a local authority may, under Article 7 of the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967, provide and maintain for persons resorting to the open space. Consent for the works is granted subject to the conditions set out at paragraph 1.

**Richard Holland**

### Site of Proposed Works on Wandsworth Common

