
Application Decision

by Richard Holland

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

Decision date: 16 October 2020

Application Ref: COM/3254508

Clapham Common, London Borough of Lambeth

Register Unit No: CL12

Commons Registration Authority: The London Borough of Lambeth.

- The application, dated 11 June 2020, 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.
 - The permanent works over an area of 35.32 square metres comprise:
 - i. a 17.66m long and 0.79m high cycle hire docking station for 21 bicycles; and
 - ii. a 2.4m high payment terminal.
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Decision

1. Consent is granted for the works in accordance with the application dated 11 June 2020 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 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)(f) specifically refers to the erection and maintenance, for or in connection with any purpose relating to the open space, of such buildings or structures as they consider necessary or desirable. Article 10 provides that a local authority may make such reasonable charges as they see fit for the use of any building or structure erected or maintained by them under sub paragraph (f). 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 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 cycle docking station and payment terminal was granted on 13 December 2019 by Lambeth Council (Application 19/03731/FUL).

¹ Common Land consents policy (Defra November 2015)

6. This application has been determined solely on the basis of written evidence. I have taken account of the representations made by Natural England (NE), Historic England (HE) and the Open Spaces Society (OSS), none 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 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

8. Common land register unit CL12 forms part of Clapham Common. It is owned and managed by the London Borough of Lambeth, which was consulted by the applicant but has not commented on the application. The applicant advises that there are no registered rights of common over CL12 and Lambeth Council has confirmed that it does not hold a copy of a Rights section of the common land register for the unit. No party has suggested that rights of common exist over CL12 and I am satisfied that there are no such rights.
9. There is no evidence before me to suggest that the works will 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

10. The works are proposed for the side of a footway at the edge of a small triangular reservation, as described in the Planning, Design and Access Statement (PDAS) submitted with the application. The reservation is separated from the main body of Clapham Common by a section of the B224 road known as The Pavement. The Pavement bounds the reservation on two sides, with the other side bounded by Clapham Common South Side road. The footway runs around the edge on all three sides.
11. 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 linked with interests of public access. Whilst the reservation is small and separated from the main body of the common by busy roads, it includes grassed areas and trees in the centre and is likely to be used for general recreational purposes to a certain extent. However, the works will occupy only an area of footway at the edge of the reservation and will not interfere with any such use. Photographs included in the PDAS show the footway to be wide enough at the application location to accommodate the works without interfering unduly with pedestrian use of the footway.
12. I conclude that the works will not unacceptably harm the interests of the neighbourhood and the protection of public rights of access.

Nature conservation

13. The PDAS says that the triangle lies within the Clapham Common Site of Importance for Nature Conservation. However, NE advised that, given the positioning of works on a footway, it had no comment to make. There is no evidence before me which leads me to think that the works will harm nature conservation interests.

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.

Conservation of the landscape and Archaeological remains and features of historic interest

14. The works are proposed within an urban setting on a reservation surrounded by busy roads near Clapham Common Underground station. The terminal is the most prominent part of the station but its colour should help it blend in with its surroundings. The docking points are unobtrusive. I conclude that the works will not look out of place in this setting and will not have a detrimental impact on the landscape.
15. Having considered the information received about the proposals, HE advised that it did not wish to offer any comments. There is no evidence before me which leads me to think that the works will harm any archaeological remains or features of historic interest.

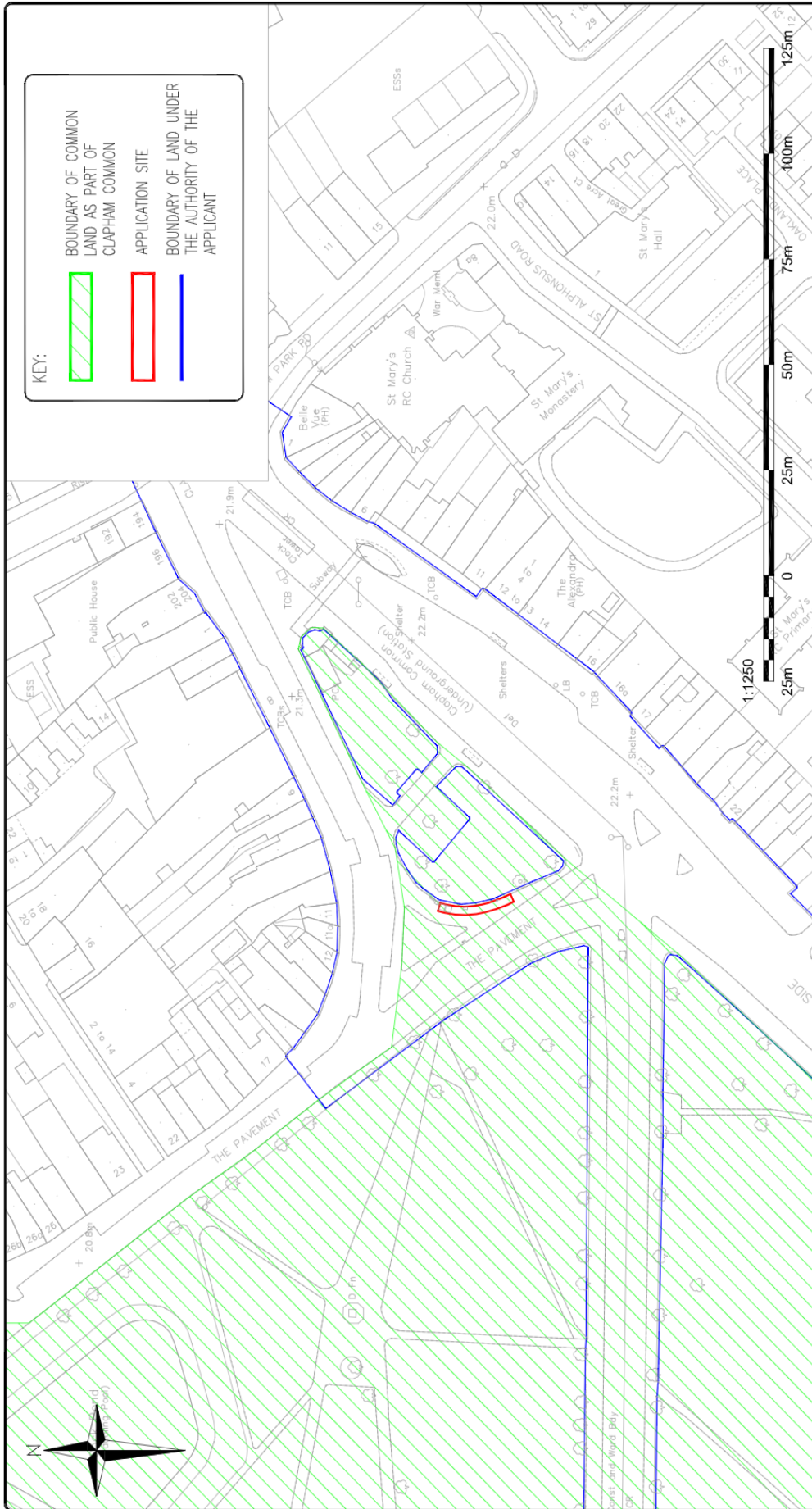
Other matters

16. Defra's common land consents policy recognises that some proposed works on common land do not benefit the common but nevertheless there is a potential underlying public benefit, for example the laying out of a cycle path to improve sustainable travel opportunities. Whilst the application is for a cycle docking station rather than a cycle path, the stated purpose of the works is to expand the Santander Cycles Scheme into Clapham, allowing local people and visitors alike to travel within the area in a sustainable way. The applicant, Transport for London, is co-ordinating the implementation of a comprehensive cycle hire scheme on behalf of the Mayor of London and the proposed works form part of that scheme. I am satisfied that the proposed works offer an underlying public benefit in accordance with the Defra policy.

Conclusion

17. 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 7 above. Indeed, they are of underlying public benefit in terms of improving sustainable travel opportunities. Consent for the works should therefore be granted, subject to the condition set out at paragraph 1 above.

Richard Holland



KEY:

- BOUNDARY OF COMMON LAND AS PART OF CLAPHAM COMMON
- APPLICATION SITE
- BOUNDARY OF LAND UNDER THE AUTHORITY OF THE APPLICANT

 Santander <small>CYCLES</small>	SANTANDER CYCLES	LAMBETH L150	Date 26/07/19	Scale 1:1250 @ A4	Dm CK	Chk ER	App DK	Rev DK
	Project LOCATION PLAN CLAPHAM COMMON STATION, CLAPHAM COMMON	Drawing Title CLAPHAM COMMON STATION, CLAPHAM COMMON	Status FOR APPROVAL	Dwg No. 09-611150-LOC	Description ADDED COMMON LAND BOUNDARY	Rev A	Date 10/09/19	Description IIMED TERMINAL IN LINE
 Sponsored Services Cycle Hire Infrastructure 250 Blackfriars Road London SE1 8NW	 Surface Transport	© Crown copyright and database right 2011. Ordnance Survey 100025971						