



Application Decision

Site visit made on 8 March 2016

by **Michael R Lowe BSc (Hons)**

an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 25/04/16

Application Ref: COM 740

Keston Common

Register Unit No. CL 80

Registration Authority: London Borough of Bromley

- The application, dated 29 September 2015, is made under Article 17 of the Greater London Parks and Open Spaces Order 1967 (the 1967 Order) for consent to utilise and exchange common land for street improvements.
 - The application is made by the London Borough of Bromley (the Council).
 - **The utilised land** is 77.38m² of land forming part of Keston Common (Register Unit CL 80), comprising strips of land west and north easterly of the junction of Westerham Road (A233) and Heathfield Road (B265).
 - **The exchange land** comprises 179m² of land situated on the northerly border of Westerham Road (A233), north west of the junction with Heathfield Road (B265) used as a bus stop lay-by.
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Decision

1. The application to utilise and exchange common land at Keston Common, Register Unit No. CL 80, is granted consent in accordance with the terms of the application Ref: COM 740, dated 29 September 2015. For the purpose of identification only the utilised land is shown hatched in red on the attached plan and the exchange land is shown hatched in blue.

Preliminary matters

2. This application has been determined on the basis of the written evidence and my site visit, made on 8 March 2016, in the company of Jenny Carne and Chris Cole (Bromley Borough Council), Larry Herbert (Friends of Keston Common) and Eric Hampson (Keston & Nash Property Watch).
3. Article 17 of the 1967 Order¹ provides that a local authority may utilise a common, or part of it, to facilitate the construction, widening or alteration of any street. Under article 17(5), where the land is utilized, alienated or exchanged it ceases to be part of the common and, under article 17(6), the exchange land is added to the common.
4. I have taken account of the representations and objections made by Natural England, The Open Spaces Society, Blackness Lane Residents' Association, Craig Dennison, Keston Village Resident's Association, the Friends of Keston Common, Keston Avenue Residents' Association, Keston and Nash Property

¹ Confirmed by the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967.

Watch, Elizabeth Anker, Dr D Blackman, Austin Musto, Kimball J Ormond, Hilary & Richard Ryder and James Wallington.

Main Issues

5. I have had regard to all the representations received and in particular to:
 - (1) The interests of persons having rights in relation to, or occupying, the land and in particular to persons exercising rights of common over it;
 - (2) The interests of the neighbourhood;
 - (3) The interests of the public²; and
 - (4) Any other matter considered to be relevant.

Reasons

The interests of those occupying or having rights over the land

6. There are no rights of common registered on the land, which is owned and managed by the Council.

The interests of the neighbourhood and the public interest

7. The proposal seeks to utilize two small strips of land on the boundary of the existing highway land to enable the construction of a roundabout and associated footways at the existing T-junction. The exchange land is an existing bus lay-by which it is proposed will be landscaped to establish appropriate vegetation.
8. The north easterly part of the land to be utilized forms part of the Keston and Hayes Commons site of special scientific interest (SSSI). Natural England have advised that the land to be utilized does not support the habitat and features for which the site is designated. The land proposed to be utilized is a small area of grass verge, distinct from the woodland and heathland vegetation of the main common. In my view the loss of this small area of grass verge would have no significant adverse impact upon the SSSI. A greater area of exchange land is proposed than the land to be utilized and the Council have undertaken to ensure that the landscaping works to this land will be agreed with Natural England.
9. The land proposed to be utilized for the highway scheme will become part of the footway network around the junction such that there would be no loss of public access or impediment to access to the main common.
10. Keston Common covers an area of 214,750m² (21.475ha). The proposal is to utilize 77.38m² and provide replacement land of 179m². In my view the proposal will have only a miniscule impact upon the common and would not detract from the amenity or conservation value of the common.
11. Many of the objectors to the proposal are concerned about the traffic and road safety implications of the proposed junction alteration. It is not my role to evaluate the merits of the Council's highway scheme. The Council are the highway authority for the roads concerned and it is their responsibility to assess the traffic implications, which they say will reduce traffic speed at the

² 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.

junction, improve traffic flow and improve road safety. As I have concluded that the proposed exchange of common land will not have any significant adverse impact upon Keston Common I do not need to weigh the benefits of the road scheme against the harm to the common.

Conclusion

12. The utilisation and exchange proposal would not affect the interests of any person having rights in relation to the release land. The proposal would have no significant impact upon the interests of the neighbourhood or the public interest. Overall, I consider that the proposal will not harm Keston Common, and the stock of common land will be increased with the provision of additional land of at least equal benefit. Having regard to these and all other matters raised in the written representations I conclude that consent should be granted in accordance with the application.

Michael R Lowe

INSPECTOR