



Home Office

**A CONSULTATION PAPER ON THE PROPOSED  
USE OF A LEGISLATIVE REFORM ORDER TO  
PERMIT A TEMPORARY POLICE MUSTER,  
BRIEFING AND DEPLOYMENT CENTRE ON  
WANSTEAD FLATS TO SUPPORT THE 2012  
OLYMPIC GAMES**

16 September 2010



# CONTENTS

MINISTERIAL FOREWORD	1
EXECUTIVE SUMMARY	2
Scope of the consultation	2
Basic information	2
Background	4
INTRODUCTION	5
London 2012 Olympic and Paralympic Games	5
Policing and security challenges	5
Proposed Muster, Briefing and Deployment Centre	5
Epping Forest Act 1878	5
Proposed Legislative Reform Order	6
Purpose of the public consultation	6
PART 1: WHY WANSTEAD FLATS?	7
Proposed one-off requirement	7
Protecting Wanstead Flats	8
Legacy	8
PART 2: THE EPPING FOREST ACT 1878: THE PROPOSAL	9
The Government's preferred option	10
PART 3: LEGAL ANALYSIS	11
Power to make a legislative reform order	11
Preconditions	11
Consultation	12
Legal analysis	12
PART 4: CONSULTATION QUESTIONS	15
PART 5: HOW TO RESPOND	16
How to respond	16
Alternative formats	16
Responses: confidentiality & disclaimer	16
Non-disclosure of responses	16
Information about Third Parties	17

ANNEX A: LEGISLATIVE REFORM ORDERS – PARLIAMENTARY CONSIDERATION	18
Introduction	18
Legislative Reform Proposals	18
Parliamentary Scrutiny	19
How to Make Your Views Known	20
ANNEX B – THE SEVEN CONSULTATION CRITERIA	21
1 – When to consult	21
2 – Duration of consultation exercises	21
3 – Clarity of scope and impact	21
4 – Accessibility of consultation exercises	21
5 – The burden of consultation	21
6 – Responsiveness of consultation exercises	21
7 – Capacity to consult	21
Consultation Coordinator	21
Feedback	21

# MINISTERIAL FOREWORD

It is now less than two years to go till the start of the London 2012 Olympic and Paralympic Games. The Games promise to be one of the greatest sporting events in UK history. Opening on 27 July and ending on 9 September, they will see more than 14,000 athletes from 200 nations competing at over 30 venues in London and around the country.

Preparations for the Games, including construction of the main Olympic Park, are well underway. Going hand in hand with this is planning for ensuring the safety and security of the Games. The Government wants the public to be able to enjoy this international event in complete safety.

Given the sheer scale of London 2012, the Games give rise to policing and security challenges. On peak days in London over 10,000 police officers will be involved. It makes practical and operational sense for officers to be gathered at the start of their shifts so they can be briefed together and deployed in the most efficient way. In order to achieve this, the Metropolitan Police Service has been seeking to identify suitable sites for temporary Muster, Briefing and Deployment centres, as normally happens for major police operations.

The Fairground area of Wanstead Flats (part of Epping Forest), has been identified as a suitable location for such a centre, not least because of its proximity to the main Olympic venues. No other suitable site has been found in that part of London.

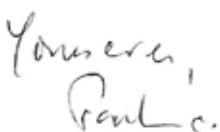
Wanstead Flats is a popular and well used open space and is protected in perpetuity by the Epping Forest Act 1878. A temporary change in the law will be required to allow for the construction of the Wanstead Flats Muster, Briefing and Deployment centre.

The Government will not remove the protections provided by the 1878 Act in the long term. Accordingly, our proposal, details of which are contained in this consultation document, is to bring forward a Legislative Reform Order under the Legislative and Regulatory Reform Act 2006. This would temporarily remove the prohibition on enclosure of land for the Fairground Site part of Wanstead Flats for 120 days in the summer of 2012. (The centre will be present for up to 90 days. The Legislative Reform Order will be for 120 days to ensure flexibility to erect/dismantle the site and return it to its original state.)

The Legislative Reform order will make no permanent changes to the 1878 Act nor will any lasting powers relating to Wanstead Flats or Epping Forest be conferred on the Police or any other public bodies.

This approach will ensure that the site remains protected in the longer term whilst meeting the Police requirements to ensure a safe and secure Games. In addition the £170,000 that the MPS will pay to the City of London Corporation in lieu of rent will be used to ensure that there are lasting environmental benefits to Wanstead Flats.

I am aware that many local people and users of the Flats have very strong views about them. The Home Office would therefore welcome your views on the proposals and safeguards set out in this document.



**BARONESS NEVILLE-JONES**  
**MINISTER OF STATE FOR SECURITY AND COUNTER TERRORISM**

# EXECUTIVE SUMMARY

## SCOPE OF THE CONSULTATION

<b>TOPIC OF THIS CONSULTATION</b>	How to enable the construction of a temporary Police Muster, Briefing and Deployment Centre to take place on a small area of Wanstead Flats to support the London Olympic and Paralympic security operation in the summer of 2012.
<b>SCOPE OF THIS CONSULTATION</b>	To seek views on the proposed amendment to the Epping Forest Act 1878 to allow a one-time, limited enclosure of land on Wanstead Flats for the specific, time-limited purpose of constructing, using and thereafter dismantling, a temporary Muster, Briefing and Deployment Centre in North East London during the 2012 Olympics and Paralympics and would leave the provisions of the 1878 Act in place.
<b>GEOGRAPHICAL SCOPE</b>	England and Wales.

## BASIC INFORMATION

<b>TO</b>	This consultation is open to everyone, but we would particularly like to hear from local residents and interest groups in the Wanstead Flats and Epping Forest areas.
<b>CONSULTATION DURATION</b>	For a period of 12 weeks from 16 September 2010 until 9 December 2010.
<b>ENQUIRIES</b>	<p>Wanstead Flats Consultation</p> <p>Olympic and Paralympic Security Directorate</p> <p>Home Office</p> <p>Office for Security and Counter Terrorism</p> <p>17<sup>th</sup> Floor</p> <p>1 Churchill Place</p> <p>London E14 5HB</p> <p>Tel: 0203 357 3445</p> <p><a href="http://www.homeoffice.gov.uk">www.homeoffice.gov.uk</a></p> <p>Email: <a href="mailto:public.enquiries@homeoffice.gsi.gov.uk">public.enquiries@homeoffice.gsi.gov.uk</a></p>
<b>HOW TO RESPOND</b>	<p>Postal address as above.</p> <p>Email: <a href="mailto:Wansteadflatsconsultation@homeoffice.x.gsi.gov.uk">Wansteadflatsconsultation@homeoffice.x.gsi.gov.uk</a></p>

<b>ADDITIONAL WAYS TO BECOME INVOLVED</b>	Please contact the Olympic Safety and Security Directorate (as above) if you require a copy of this paper in any other format, such as Braille, large font or audio.
<b>AFTER THE CONSULTATION</b>	A summary of responses will be published before or alongside any further action.  <a href="http://www.homeoffice.gov.uk">www.homeoffice.gov.uk</a>

**BACKGROUND**

<p><b>GETTING TO THIS STAGE</b></p>	<p>The Metropolitan Police Service (MPS) has been seeking to identify suitable sites for three temporary London centres which will be required to brief and deploy police officers during the 2012 Olympic and Paralympic Games. These centres are a tried and tested feature of large scale police operations.</p> <p>The MPS has carried out an extensive review of available open land and sites across East London. This used a number of measures relating to security, access and distance from the main Olympic park in the locality to find a site that meets all of the MPS’s operational requirements. The fairground area of Wanstead Flats, near to the Jubilee Pond, has been identified as the only suitable location for one of these temporary centres for officers covering the area around the Olympic Park, Victoria Park and Stratford.</p> <p>The Epping Forest Act 1878 specifies the preservation and management of Epping Forest, including ensuring that the land is kept unenclosed and un-built on.</p> <p>It is now proposed to make a time limited, temporary amendment to the 1878 Act through a Legislative Reform Order. The aim will be to allow a one-time enclosure of land on a small area of Wanstead Flats, on which a temporary Police Muster, Briefing and Deployment centre would be erected. This would be for a period of 120 days only (the period of actual enclosure will not exceed 90 days). The MPS will then ensure that the land is returned to its original state at the end of the Games.</p> <p>The proposed amendment will be strictly limited to the unique policing need in the summer of 2012. No lasting powers relating to Wanstead Flats or Epping Forest will be conferred on the Police or any other bodies. The Epping Forest Act 1878 will revert to its existing terms at the end of the 120 day period.</p>
<p><b>PREVIOUS ENGAGEMENT</b></p>	<p>This proposal has been discussed with the City of London Corporation (the Conservators of Epping Forest) who are supportive. The MPS is also undertaking a public consultation exercise with local residents and community groups prior to the MPS making its planning application for the Centre to the London Borough of Redbridge. For further information please see <a href="http://www.met.police.uk/co/wanstead_flats.htm">www.met.police.uk/co/wanstead_flats.htm</a></p>



# INTRODUCTION

## LONDON 2012 OLYMPIC AND PARALYMPIC GAMES

The London 2012 Olympic and Paralympic Games promise to be one of the greatest sporting events in UK history. Opening on 27 July and going through to 9 September, the Games will see more than 14,000 athletes from 200 nations competing at over 30 venues in London and around the country.

The London 2012 Games will take place alongside regular events such as Wimbledon and the Notting Hill Carnival, as well as the celebrations for Her Majesty The Queen's Diamond Jubilee.

## POLICING AND SECURITY CHALLENGES

The UK has an excellent track record of successfully hosting major events safely and securely – it's one of the reasons the UK won the Olympic bid in the first place. However given the sheer scale of London 2012, the Games will pose significant policing and security tasks. They will require one of the largest policing deployments in UK history – on peak days in London over 10,000 police officers will be involved, all of whom will need to be briefed and deployed. It will be absolutely vital that these officers (and other staff) receive consistent briefing on relevant background and on specific operational requirements.

## PROPOSED MUSTER, BRIEFING AND DEPLOYMENT CENTRE

The Metropolitan Police Service (MPS) has concluded that this requirement can best be achieved by using three geographically-based, purpose-built temporary Muster, Briefing and Deployment Centres: one in North-East London to serve the Olympic Park, Victoria Park and Stratford; one in the South-East to serve Greenwich, including the O2 centre, the river zone and Woolwich; and one in the West to serve the central and west London venues.

Such centres are a tried and tested way of marshalling and briefing large numbers of police officers in one go, and have been used for other large scale events such as the Notting Hill Carnival. They are temporary, purpose-built structures designed to support large numbers of officers for short periods of time. They are assembled and dismantled by the MPS and their appointed contractors who have a dedicated team experienced in managing these facilities. The size of the London 2012 Games, including the spread of venues across London, means that one single centre would not be operationally practicable.

The proposed North-East centre would be the largest. The MPS has carried out an extensive review of available open land and sites across East London using a number of measures relating to security, access and distance from the Olympic park in the locality to find a site that meets all of the MPS's operational requirements. The fairground area of Wanstead Flats, near to the Jubilee Pond, has been identified as the only location for one of these temporary centres for officers covering the area around the Olympic Park, Victoria Park and Stratford. Without this Centre, police deployments during Games time would be more complex and expensive, involving longer travel time for the officers involved.

## EPPING FOREST ACT 1878

The Epping Forest Act 1878 designates the City of London Corporation as 'Conservators' of the Forest. The Act requires the Corporation to regulate and manage the Forest and sets out a number of duties including a duty to keep the forest un-enclosed and un-built on. The Centre would require temporary construction and would need to be enclosed, thus requiring temporary suspension of some of the provisions of the Act of 1878 if it is to be built.

### **PROPOSED LEGISLATIVE REFORM ORDER**

The Government believes that the Epping Forest Act 1878 is an important piece of legislation which preserves a well loved open space for public use and is committed to retaining this. However in the particular circumstances of the 2012 Olympic and Paralympic Games, the Act contains a burden which amounts to an obstacle to a proposal which is essential for the efficient protection of the Games. The Government therefore considers that it would be desirable temporarily to remove this burden by using a Legislative Reform Order (made under the Legislative and Regulatory Reform Act 2006) to amend the Epping Forest Act. The proposal would be to enable the Corporation to authorise a temporary Centre limited to the unique policing need in the summer of 2012. The Centre would be dismantled by the MPS after the Games, and the land returned to its original state. The City of London Corporation has also agreed that the £170,000 that the MPS will be required to pay for its use of the land will be used for access, planting and landscaping improvements on Wanstead Flats. This will ensure that local residents and the Conservators receive lasting environmental legacy benefits.

### **PURPOSE OF THE PUBLIC CONSULTATION**

This consultation paper seeks views on the proposed use of a Legislative Reform Order to remove impediments in the Epping Forest Act 1878 to enclosing temporarily a small area of land on Wanstead Flats. This would in turn permit a purpose-limited, time-limited and space-limited construction of a temporary police Muster, Briefing and Deployment Centre to support the Olympic security operation in 2012. The Epping Forest Act 1878 would remain in force in its current form.

This consultation is being conducted in line with the Code of Practice on Consultation, the criteria for which are set out in Annex B of the paper.

An impact assessment has not been completed as there will not be any impact on the private or voluntary sector from these proposals, beyond that of the fairground operator who will be reimbursed by a sum provided for in the contract negotiated between the City of London Corporation and the MPS. However if there are any further private sector or voluntary bodies that believe they will incur direct costs as a result of these proposals they should respond to this consultation.

The Government welcomes informed views from any quarter and therefore invites responses from any interested parties.

The consultation period will end on 9 December 2010. We expect to publish a summary of responses before or alongside any further action, and this will be made available on the Home Office website.

# PART 1: WHY WANSTEAD FLATS?

Wanstead Flats is the only suitable site for the proposed North East centre that meets all the operational requirements required by the MPS. It is, for example, a large, contained site close to the Olympic Park and new Westfield shopping centre through which a large percentage of visitors to the Park will transit. It is also close to Victoria Park where supporting Olympic events are taking place. The site is big enough to accommodate police requirements and is not designated for any other Olympic use. It is not too close to residential areas and has easy access to the road network as well as being close to Stratford, a major transport hub.

Wanstead Flats is a much loved public open space, well used by variety of people for a whole range of recreational activities including walking, horse riding, picnics, bird watching, football, cricket, jogging, cycling and flying model aeroplanes. The MPS recognises this and has therefore carefully considered the location of the proposed centre with the City of London Corporation to minimise any disruption to these uses and to avoid disturbing any of the protected wildlife sites on the Flats.

It is proposed that the Muster, Briefing and Deployment Centre will be situated on a small area of the Flats occasionally used as a fairground and known locally as the "Fairground site". The site is in the London Borough of Redbridge but is close to the boundary of both the London Boroughs of Newham and Waltham Forest. Lying between Centre Road and Jubilee Pond, the proposed site covers approximately 3.5 hectares and will be fully enclosed by temporary fencing. This means that much of the greater part of the Wanstead Flats will remain open to local people.

The proposed site is currently used for other events including a fair, circus and firework displays on a regular basis and therefore already has areas of semi-compacted land and vehicular access which will minimise

impact. It is also located away from the main residential areas with the nearest homes to the south of the site over 110m away. There are no trees in the area of the proposed enclosure and, while important to recreation, it is of relatively low ecological value compared to the rest of the area. (Please refer to the 'Habitat Survey Wanstead Muster Briefing and Deployment Centre' available on the consultation website at [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk) for further information.)

## PROPOSED ONE-OFF REQUIREMENT

Access to the land for the Muster, Briefing and Deployment Centre will be required for a total of approximately 120 days between June and September 2012. This will include preparation and subsequent making good, although the period of the enclosure will not exceed 90 days. This will allow for setting up prior to the Games, utility connections, use during the Games and dismantling after the Paralympics, as well as returning the area back to its original condition. The centre will include a mixture of tents, marquees, mobile cooking and sanitary units, porta-cabin offices, and temporary stables with associated stores and equipment containers. The site will be enclosed by a lightweight solid panel steel fence. The intention is to paint this a Royal Park's green and incorporate occasional information panels to explain the structure.

The Centre will support Police and other Services officers delivering safety and security operations to the Olympic Park, Victoria Park and the surrounding areas. This includes Stratford town centre with its transport hubs and the Westfield Centre. The proposed centre at Wanstead Flats (along with the other two centres) will be at the heart of operational support during the Olympic period.

## PROTECTING WANSTEAD FLATS

The MPS is committed to minimising its environmental impact across all of its activity in London, and the proposed positioning of the Muster, Briefing and Deployment Centre on this site has been carefully considered. Being able to brief a large number of police officers in once place, close to the Olympic Park, which will reduce the amount of deployment travelling they will be required to do.

The site will be securely fenced and located away from the boundary of the area statutorily protected for nature conservation: the Epping Forest Site of Special Scientific Interest (SSSI) to the north and the Jubilee Pond to the south. This will ensure these areas are not disturbed by activity within the centre. Habitats of nature conservation value are outside the perimeter of the Centre and will remain untouched.

Ecology, archaeology and traffic reports have been carried out to make certain that there is no risk to or impact on surrounding wildlife / habitats. The following environmental measures will also be put in place:

- when setting up the centre, the MPS would install temporary drainage systems to ensure that water from the site does not run into Jubilee Pond or anywhere else on the Flats and is removed from the site. Areas of the site which are already semi-compacted will be used for operational vehicle parking and a protective temporary track way would be used to offer protection to the existing surface;
- the distance from the proposed site boundary to the tree belt to the south is at least 25m. The site enclosure and distance to the trees will ensure they are protected and the temporary perimeter fence panel system will be surface mounted, reducing the risk of tree root damage. This has been confirmed by a tree specialist;

- waste and recycling facilities will be located at strategic locations throughout the site and disposed of at regular intervals;
- the site layout would minimise noise in the surrounding area and this would be helped by the surrounding 3.4m high temporary fence and existing trees around the site, which will be in full leaf;
- all vehicles will comply with emissions standards and vehicle schedules will be drawn up in such a way to minimise vehicle movements.

The MPS has consulted with English Heritage, Natural England and the Environment Agency in relation to the briefing centre and they have raised no objections to the proposals.

The City of London Corporation's Epping Forest and City Commons Committee has carefully considered this proposal and agreed in principle to the proposed use of the small part of the Flats for the Centre as a "one off" for the Games, subject to a full public consultation process.

The MPS will be making a formal planning application to Redbridge Borough Council following a separate local consultation that they will be undertaking from 25 August to 26 September 2010. They will also work closely with local communities to minimise the impact of the proposed centre.

## LEGACY

As with any site that the MPS may wish to use, there will be a requirement to pay rent. In this instance the City of London Corporation has agreed that the £170,000 that the MPS will be required to pay for use of the land will be used for access, planting and landscaping improvements on Wanstead Flats. This will ensure that local residents receive lasting environmental benefits and they will be invited to give views on how this money could best be spent.

## PART 2: THE EPPING FOREST ACT 1878: THE PROPOSAL

The Epping Forest Act 1878 lays down the legal framework for the preservation and management of Epping Forest of which Wanstead Flats forms a small part. Section 3 of the Act designates the City of London Corporation as Conservators of the Forest. In the Corporation, responsibility for the forest is vested in the Epping Forest and Commons Committee.

The Act requires the Conservators, amongst other duties, to keep the Forest un-enclosed and un-built on as an open space for the recreation and enjoyment of the public. Use of the land other than in accordance with the Act would be unlawful.

In particular section 34 of the Act creates a criminal offence of making a new enclosure of land in the Forest without such enclosure being authorised by the Act.

This is in line with other provisions in the Act which include:

- that the public has the right to use Epping Forest as an open space for recreation and enjoyment (subject to the Act): section 9;
- an obligation on the Corporation to keep Epping Forest un-enclosed and un-built on (subject to the provisions of the Act): section 7; and
- that existing rights of common of pasture and of common of mast or pannage for swine on or over the Forest (right to turn out pigs on the land during the pannage season (autumn) in order to eat beech mast, acorns and nuts) will continue: section 5

There are powers under the 1878 Act (as amended) to allow for public entertainment to take place on the land (hence the licences granted for use for a fair and circus), because these do not require the land to be enclosed for these purposes. However, because of the requirement to ensure that access to the Muster, Briefing and

Deployment Centre is strictly regulated (and therefore enclosing the area in which the Centre is situated) the Corporation has no powers at present to authorise the use of the land as a Muster, Briefing and Deployment Centre.

Section 45 of the Act allows the MPS to exercise its powers and duties on the land but this does not extend to the enclosure of parts of the land for a Muster, Briefing and Deployment Centre. To achieve this, amendment of the Act is required.

Without such specific authorisation, the enclosure and use of part of the Wanstead Flats for a temporary centre cannot be lawfully authorised by the Corporation. We consider that we have only three options in order to remove the burden of the criminal offence in section 34:

1. To acquire the land by compulsory purchase (the 1878 Act does not apply to land no longer owned by the corporation); or
2. To remove the criminal offence in its entirety and make consequential provisions enabling the Corporation to authorise enclosures in Epping Forest; or
3. To make specific provision removing the criminal offence which would otherwise attach to the enclosure of land necessary for the Centre and enabling the Corporation to authorise the enclosure of land solely for this purpose for the 2012 Games.

The Government has no wish to pursue the first two options, which could lead in the longer term to a detrimental impact on the use of Epping Forest as a public amenity.

### **THE GOVERNMENT'S PREFERRED OPTION**

AMEND THE EPPING FOREST ACT 1878  
THROUGH A LEGISLATIVE REFORM ORDER  
(LRO) SPONSORED BY THE HOME OFFICE.

The proposed LRO would remove the burden of the criminal offence which would currently attach to the proposed enclosure of land and enable the Corporation to grant permission to the MPS to construct and use a temporary Centre. This would be a supplemental provision to the removal of the criminal offence.

The proposed amendment to the Epping Forest Act would be strictly limited to the unique policing need in the summer of 2012. No lasting general powers relating to Wanstead Flats or Epping Forest would be conferred on the Police or any other bodies, and the Act would revert to its full protection at the end of the 120 day period.

## PART 3: LEGAL ANALYSIS

This Part explains the purposes for which a Legislative Reform Order can be made and the pre-conditions that must be satisfied. It also sets out the legal analysis for our proposals in order to assist you in forming your views on the proposal.

### POWER TO MAKE A LEGISLATIVE REFORM ORDER

Under section 1 of the Legislative and Regulatory Reform Act 2006, a Minister can make an LRO for the purpose of “removing or reducing any burden, or overall burdens, resulting directly or indirectly for any person from any legislation”.

Section 1(3) of the 2006 Act defines a “burden” as:

- a financial cost;
- an administrative inconvenience;
- an obstacle to efficiency, productivity or profitability; or
- a sanction, criminal or otherwise, which affects the carrying on of any lawful activity.

Section 1(8) of the 2006 Act allows the LRO to “contain such consequential, supplementary or transitional provision as the Minister making it thinks appropriate”.

### PRECONDITIONS

Each proposal for an LRO must satisfy the preconditions set out in section 3 of the 2006 Act. The questions raised in the consultation are designed to help provide the information that the Minister will need in order to satisfy the Parliamentary Scrutiny Committees that, among other things, the proposal satisfies these preconditions.

Therefore part of the purpose of the consultation is to elicit views on whether and how each aspect of the proposed changes in this consultation document meets the following preconditions:

### NON-LEGISLATIVE SOLUTIONS

An LRO may not be made if there are non-legislative solutions which will satisfactorily remedy the difficulty which the LRO is intended to address. An example of a non-legislative solution might be issuing guidance about a particular legislative regime.

### PROPORTIONALITY

The effect of a provision made by an LRO must be proportionate to its policy objective. A policy objective might be achieved in a number of different ways, one of which may be more onerous than others and may be considered to be a disproportionate means of securing the desired outcome. Before making an LRO the Minister must consider that this is not the case and that there is an appropriate relationship between the policy aim and the means chosen to achieve it.

### FAIR BALANCE

Before making an LRO, the Minister must be of the opinion that a fair balance is being struck between the public interest and the interests of any person adversely affected by the LRO. It is possible to make an LRO which will have an adverse effect on the interests of one or more persons only if the Minister is satisfied that there will be beneficial effects which are in the public interest. Whenever an LRO imposes or increases a burden for a person, it adversely affects their interest, so the Minister must take into account any new or increased burdens when considering whether or not this condition is met.

### NECESSARY PROTECTION

A Minister may not make an LRO if he or she considers that the proposals would remove any necessary protection. The notion of necessary protection can extend to economic protection, health and safety protection, and the protection of civil liberties, the environment and national heritage. Protections which would have been thought

to be necessary in the past may no longer be considered necessary.

## RIGHTS AND FREEDOMS

An LRO cannot be made unless the Minister is satisfied that it will not prevent any person from continuing to exercise any right or freedom which they might reasonably expect to continue to exercise. This condition recognises that there are certain rights that it would not be fair to take away from people by using an LRO. Any right conferred or protected by the European Convention on Human Rights is a right which a person might reasonably expect to keep.

## CONSTITUTIONAL SIGNIFICANCE

A Minister may not make an LRO if he or she considers that the provision made by the LRO is of constitutional significance. This condition would allow an LRO to amend enactments which are considered to be constitutionally significant, but only if the amendments are not themselves constitutionally significant.

It should be noted that even where the preconditions of section 3 of the 2006 Act are met, an LRO cannot:

- Deliver 'highly controversial' proposals;
- Remove burdens which fall solely on Ministers or Government departments, except where the burden affects the Minister or Government department in the exercise of regulatory functions;
- Confer or transfer any function of legislating on anyone other than a Minister; persons or bodies that have statutory functions conferred on or transferred to them by an enactment; a body or office which has been created by the LRO itself;
- Impose, abolish or vary taxation;

- Create a new criminal offence or increase the penalty for an existing offence so that it is punishable above certain limits;
- Provide authorisation for forcible entry, search or seizure, or compel the giving of evidence;
- Amend or repeal any provision of Part 1 of the 2006 Act;
- Amend or repeal any provision of the Human Rights Act 1998;
- Remove burdens arising solely from common law.

## CONSULTATION

The 2006 Act requires Departments to consult widely on all LRO proposals. Part 5 of this document tells you how to respond to this consultation.

## LEGAL ANALYSIS

The remainder of this Chapter sets out our view of how our proposal to amend the Epping Forest Act 1878 meets the preconditions of the 2006 Act.

We consider that removing the criminal offence in section 34 which would otherwise attach to the enclosure of land necessary for the temporary Centre is removing a burden (a criminal sanction) within the meaning of the 2006 Act. We furthermore consider that enabling the Corporation to grant permission for the construction of a temporary Centre is an appropriate supplemental provision to the removal of the criminal offence.

We do not consider that our proposal to amend the Epping Forest Act 1878 in order to enable the construction and use of a temporary enclosed Centre on Wanstead Flats has constitutional significance.

Therefore we address the non-legislative solutions; proportionality; fair balance; necessary protection; and rights and freedoms.



## NON-LEGISLATIVE SOLUTIONS

Section 34 of the Epping Forest Act 1878 creates a criminal offence “if any person, except as authorised by this Act ... makes any new enclosure of land in Epping Forest”.

As the proposed temporary enclosure is not currently authorised by the Act, the LRO would amend the Act by authorising the temporary enclosure. Without amending the Act, the construction of the temporary enclosure would be a criminal offence. It is only possible to amend the Act by further legislation.

The only other option which would result in the criminal offence not being applicable to the temporary enclosure would be a compulsory purchase of the land in question; this would mean that the land was no longer subject to the Epping Forest Act. However, we consider that this goes far beyond our proposal and would be disproportionate.

On this basis, in order to achieve a time and purpose-limited temporary enclosure, there is no non-legislative solution available.

## PROPORTIONALITY

As noted above, we consider that the option of a compulsory purchase order would be disproportionate to the aim of enabling this temporary enclosure to be constructed and used.

We are conscious that there are good reasons to maintain this criminal offence for other purposes. Rather than removing the criminal offence in its entirety, we are proposing to remove it for a specific purpose, at a specific location and for a specific time. We consider that it is proportionate to time and purpose-limit our amendment in the way proposed.

## FAIR BALANCE

We are aware that the interest of persons who use the Wanstead Flats area of Epping Forest for sporting and other recreational activities could be affected by our proposal. However we need to balance this against the public interest in ensuring the secure delivery of the 2012 Games. We consider that it is in the general public interest to deliver the Games securely, but perhaps particularly in the interests of those who live in the vicinity of the different Olympic venues and those individuals who attend events. We consider that enabling this temporary enclosure will genuinely assist that delivery whilst minimising impact on local communities who will still be able to access and enjoy the majority of Wanstead Flats. As set out in the introduction, failure to have this temporary enclosure could mean more complex, time-consuming and expensive deployment of officers during the Games. The more complex and time-consuming a deployment is, the less effective it may be.

We have approached this balancing exercise in a proportionate manner and hence will time-limit and purpose-limit our amendment so as to ensure that any interests affected are only affected for the shortest time necessary and for the only purpose of ensuring a safe and secure delivery of the 2010 Games.

## NECESSARY PROTECTION

We do not consider that our proposal will remove any necessary environmental or other protection. This is because careful research has been done into the proposed site which we are aware is currently used for other events on a regular basis and already has areas of hard standing and vehicular access. It is located away from the main residential areas and there are no trees on this part of the Flats; it is of relatively low ecological value compared to the rest of the area. (Please refer to the ‘Habitat Survey Wanstead Muster Briefing and Deployment

Centre' available on the consultation website at [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk) for further information.)

We are very conscious about the need to protect Wanstead Flats, hence all the steps set out in Part 1 ("Protecting Wanstead Flats") will be undertaken to ensure that the area is protected. The MPS will also ensure that the land is returned to its original state at the end of the Games.

### RIGHTS AND FREEDOMS

We consider that the proposed amendment to the Epping Forest Act will not prevent any person from continuing to exercise any right or freedom which they might reasonably expect to continue to exercise. Whereas we realise that by constructing a temporary Centre, we will limit the public's ability to be able to use that particular area of Wanstead flats for recreation purposes for a limited period of time, we are mindful that the public are used to this area being used for other purposes such as the circus, fireworks or fair, hence it being known as the "Fairground Site". Although the public still have access to these events (with the exception of one fair), their rights and freedoms are still more limited in comparison to completely open areas of the Forest. We therefore consider that the public do not have a reasonable expectation that their rights and freedoms will always be exercisable to their fullest extent throughout the entire of the Forest, since this is already restricted by the Act itself.

We do not think that the proposed amendment would affect any rights or freedoms protected by the European Convention on Human Rights. We consider that any interference with the public's rights and freedoms is minimal and reasonable, when taking into account the fair balance between those rights and the right to the safe delivery of the 2012 Games which we have sought to achieve in a proportionate proposal.

## PART 4: CONSULTATION QUESTIONS

We are interested to receive feedback on all aspects of this consultation. To help guide your consideration, you might want to consider the following questions that are set out in this section.

- Given that the use of Wanstead Flats is essential to ensuring the safety and security of the 2012 Olympic and Paralympics do you agree that a Legislative Reform Order is the best way to amend the Epping Forest Act 1878 in order to allow a one-off, time specific temporary construction on a small part of Wanstead Flats?
- Do you agree that specific provision which is time and purpose limited to the 2012 Games is the best of the three options set out on page 9.
- Do you agree that there are no costs to the private sector or voluntary sector from this proposal?

## PART 5: HOW TO RESPOND

### HOW TO RESPOND

The closing date for responses to this consultation is 9 December 2010.

You can email your views to us at:

[Wansteadflatsconsultation@homeoffice.x.gsi.gov.uk](mailto:Wansteadflatsconsultation@homeoffice.x.gsi.gov.uk)

Or you can write to us at:

Wanstead Flats Consultation  
Olympic and Paralympic Security Directorate  
Home Office  
Office for Security and Counter Terrorism  
17th Floor  
1 Churchill Place  
London E14 5HB

Additional copies of this paper can be downloaded from our website at [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

### ALTERNATIVE FORMATS

You should also contact the Olympic and Paralympic Security Directorate at the above email or postal address if you require a copy of this consultation paper in any other format, such as Braille, large font or audio.

### RESPONSES: CONFIDENTIALITY & DISCLAIMER

The information you send us may be passed to colleagues within the Home Office, the Government or related agencies.

Furthermore, information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 and the Environmental Information Regulations 2004).

IF YOU WANT THE INFORMATION THAT YOU PROVIDE TO BE TREATED AS CONFIDENTIAL, please be aware that, under the FOIA, there is a statutory Code of Practice with which

public authorities must comply and which deals, among other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation but we cannot give assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Home Office.

Please ensure that your response is marked clearly if you wish your response and name to be kept confidential.

Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.

The Home Office will process your personal data in accordance with the Data Protection Act; in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual responses will not be acknowledged unless specifically requested.

Representative bodies are asked to give a summary of the people and organisations they represent when they respond.

### NON-DISCLOSURE OF RESPONSES

Section 14(3) of the Legislative and Regulatory Reform Act 2006 (LRRRA) provides what should happen when someone responding to the consultation exercise on a proposed LRO requests that their response should not be disclosed.

The name of the person who has made representations will always be disclosed to Parliament. If you ask for your representation not to be disclosed, the Minister should not disclose the content of the representation without your express consent and, if the representation relates to a third party, their

consent too. Alternatively, the Minister may disclose the content of the representation in such a way as to preserve your anonymity and that of any third party involved

### **INFORMATION ABOUT THIRD PARTIES**

If you give information about a third party which the Minister believes may be damaging to the interests of the third party, the Minister does not have to pass on such information to Parliament if he does not believe it is true or he is unable to obtain the consent of the third party to disclosure. This applies whether or not you ask for your representation not to be disclosed.

The Scrutiny Committees may, however, be given access on request to all representations as originally submitted, as a safeguard against improper influence being brought to bear on Ministers in their formulation of legislative reform orders.

# ANNEX A: LEGISLATIVE REFORM ORDERS – PARLIAMENTARY CONSIDERATION

## INTRODUCTION

These reform proposals in relation to the one off use of Wanstead Flats will require changes to primary legislation in order to give effect to them. The Minister could achieve these changes by making a Legislative Reform Order (LRO) under the Legislative and Regulatory Reform Act 2006 (LRRRA). LROs are subject to preliminary consultation and to rigorous Parliamentary scrutiny by Committees in each House of Parliament. On that basis, the Minister invites comments on these proposals in relation to the amendments to the 1878 Epping Forest Act that might be carried forward by a LRO.

## LEGISLATIVE REFORM PROPOSALS

This consultation document on Wanstead Flats and the Epping Forest Act 1878 has been produced because the starting point for LRO proposals is thorough and effective consultation with interested parties. In undertaking this preliminary consultation, the Minister is expected to seek out actively the views of those concerned, including those who may be adversely affected, and then to demonstrate to the Scrutiny Committees that she has addressed those concerns.

Following the consultation exercise, when the Minister lays proposals before Parliament under the section 14 of the Legislative and Regulatory Reform Act (LRRRA) 2006, she/he must lay before Parliament the Explanatory Document that must:

- I. Explain under which power or powers in the LRRRA the provisions contained in the order are being made;
- II. Introduce and give reasons for the provisions in the Order
- III. Explain why the Minister considers that:

- There is no non-legislative solution which will satisfactorily remedy the difficulty which the provisions of the LRO are intended to address;
- The effect of the provisions are proportionate to the policy objective;
- The provisions made in the order strike a fair balance between the public interest and the interests of any person adversely affected by it;
- The provisions do not remove any necessary protection;
- The provisions do not prevent anyone from continuing to exercise any right or freedom which they might reasonably expect to continue to exercise;
- The provisions in the proposal are not constitutionally significant; and
- Where the proposals will restate an enactment, it makes the law more accessible or more easily understood.

IV. Include, as far as appropriate, an assessment of the extent to which the provision made by the order would remove or reduce any burden or burdens;

V. Identify and give reasons for any functions of legislating conferred by the order and the procedural requirements attaching to the exercise of those functions; and

VI. Give details of any consultation undertaken, any representations received as a result of the consultation and the changes (if any) made as a result of those representations.

On the day the Minister lays the proposals and explanatory document, the period for Parliamentary consideration begins. This lasts 40 days under negative and affirmative resolution procedure and 60 days under super-affirmative resolution procedure. If you want a copy of the proposals and the Minister's explanatory document laid before

Parliament, you will be able to get either from the Government department concerned or by visiting the Home Office website at:

[www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

### PARLIAMENTARY SCRUTINY

Both Houses of Parliament scrutinise legislative reform proposals and draft LROs. This is done by the Regulatory Reform Committee in the House of Commons and the Delegated Powers and Regulatory Reform Committee in the House of Lords.

Standing Orders for the Regulatory Reform Committee in the Commons stipulate that the Committee considers whether proposals:

- a) appear to make an inappropriate use of delegated legislation;
- b) serve the purpose of removing or reducing a burden, or the overall burdens, resulting directly or indirectly for any person from any legislation (in respect of a draft Order under section 1 of the Act);
- c) serve the purpose of securing that regulatory functions are exercised so as to comply with the regulatory principles, as set out in section 2(3) of the Act (in respect of a draft Order under section 2 of the Act);
- d) secure a policy objective which could not be satisfactorily secured by non-legislative means;
- e) have an effect which is proportionate to the policy objective;
- f) strike a fair balance between the public interest and the interests of any person adversely affected by it;
- g) do not remove any necessary burden;
- h) do not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise;

- i) are not of constitutional significance;
- j) make the law more accessible or more easily understood (in the case of provisions restating enactments);
- k) have been the subject of, and take appropriate account of, adequate consultation;
- l) give rise to an issue under such criteria for consideration of statutory instruments laid down in paragraph (1) of Standing Order No 151 (Statutory Instruments (Joint Committee)) as are relevant, such as defective drafting or failure of the department to provide information where it was required for elucidation;
- m) appear to be incompatible with any obligation resulting from membership of the European Union.

The Committee in the House of Lords will consider each proposal in terms of similar criteria, although these are not laid down in Standing Orders.

Each Committee might take oral or written evidence to help it decide these matters, and each Committee would then be expected to report.

Copies of Committee Reports, as Parliamentary papers, can be obtained through HMSO. They are also made available on the Parliament website at:

- Regulatory Reform Committee in the Commons; and
- Delegated Powers and Regulatory Reform Committee in the Lords

Under negative resolution procedure, each of the Scrutiny Committees is given 40 days to scrutinise an LRO, after which the Minister can make the order if neither House of Parliament has resolved during the period that the order should not be made or to veto the LRO.

Under affirmative resolution procedure, each of the Scrutiny Committees is given 40 days to scrutinise an LRO, after which the Minister can make the order if it is not vetoed by either or both of the Committees and it is approved by a resolution of each House of Parliament.

Under super-affirmative procedure, each of the Scrutiny Committees is given 60 days to scrutinise the LRO. If, after the 60 day period, the Minister wishes to make the order with no changes, she may only do so after he has laid a statement in Parliament giving details of any representations made and the LRO is approved by a resolution of each House of Parliament. If the Minister wishes to make changes to the draft LRO she/he must lay the revised LRO and as well as a statement giving details of any representations made during the scrutiny period and of the proposed revisions to the order, before Parliament. The Minister may only make the order if it is approved by a resolution of each House of Parliament and has not been vetoed by either or both relevant Committees.

### **HOW TO MAKE YOUR VIEWS KNOWN**

Responding to this consultation document is your first and main opportunity to make your views known to the relevant department as part of the consultation process. You should send your views to the person named in the consultation document (see Part 5). When the Minister lays proposals before Parliament you are welcome to put your views before either or both of the Scrutiny Committees. In the first instance, this should be in writing. The Committees will normally decide on the basis of written submissions whether to take oral evidence.

Your submission should be as concise as possible, and should focus on one or more of the criteria listed in paragraph 6 above.

The Scrutiny Committees appointed to scrutinise Legislative Reform Orders can be contacted at:

**DELEGATED POWERS AND  
REGULATORY REFORM  
COMMITTEE**  
House of Lords  
London  
SW1A 0PW

Tel: 0207 219 3103  
Fax: 0207 219 2571  
e-mail: [DPDC@parliament.uk](mailto:DPDC@parliament.uk)

**REGULATORY REFORM COMMITTEE**  
House of Commons  
7 Millbank  
London  
SW1P 3JA

Tel: 0207 7219 2830/2833/2837  
Fax: 0207 7219 2509  
e-mail: [regreform@parliament.uk](mailto:regreform@parliament.uk)



# ANNEX B – THE SEVEN CONSULTATION CRITERIA

Where possible this consultation follows the Code of Practice on Consultation – the criteria for which are set out below:

## 1 – WHEN TO CONSULT

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

## 2 – DURATION OF CONSULTATION EXERCISES

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

## 3 – CLARITY OF SCOPE AND IMPACT

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

## 4 – ACCESSIBILITY OF CONSULTATION EXERCISES

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

## 5 – THE BURDEN OF CONSULTATION

Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

## 6 – RESPONSIVENESS OF CONSULTATION EXERCISES

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

## 7 – CAPACITY TO CONSULT

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

The full Code of Practice on Consultation is available at: <http://www.berr.gov.uk/whatwedo/bre/consultation-guidance/page44420.html>

## CONSULTATION COORDINATOR

If you have a complaint or comment about the Home Office's approach to consultation, you should contact the Home Office Consultation Co-ordinator, Nigel Lawrence. Please DO NOT send your response to this consultation to Nigel Lawrence. The Co-ordinator works to promote best practice standards set by the Code of Practice, advises policy teams on how to conduct consultations and investigates complaints made against the Home Office. He does not process your response to this consultation.

The Coordinator can be emailed at: [Nigel.Lawrence@homeoffice.gsi.gov.uk](mailto:Nigel.Lawrence@homeoffice.gsi.gov.uk) or alternatively write to him at:

Nigel Lawrence, Consultation Coordinator  
Home Office  
Performance and Delivery Unit  
Better Regulation Team  
3rd Floor Seacole  
2 Marsham Street  
London  
SW1P 4DF

## FEEDBACK

We welcome any feedback to the consultation email address: [Wansteadflatsconsultation@homeoffice.x.gsi.gov.uk](mailto:Wansteadflatsconsultation@homeoffice.x.gsi.gov.uk)





**Crown Copyright 2010**  
**ISBN: 978-1-84987-258-4**  
Home Office  
September 2010