



Application Decision

by **Richard Holland**

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

Decision date: 9 April 2019

Application Ref: COM/3220422

HACKNEY MARSH EAST, LONDON BOROUGH OF HACKNEY

Register Unit No: CL 17

Commons Registration Authority: London Borough of Hackney

- The application, dated 8 January 2019, 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 Hackney.
 - The works comprise the installation of a new path constructed from self-binding Breedon gravel (to match existing perimeter path). The path will be 3 m wide (in line with the existing perimeter path) 47.34 m long and will cover 142 m².
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Decision

1. Consent is granted for the works in accordance with the application dated 8 January 2019 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 coloured red 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 Guidance¹ 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.

¹ Common Land Consents Policy Guidance (Defra November 2015)

6. I have taken account of the representations made by the Open Spaces Society (OSS) 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;² and
 - d. any other matter considered to be relevant.

Reasons

The interests of those occupying or having rights over the land

8. The common is owned and managed by the applicant. There are no rights of common registered. I am satisfied that the works will not harm the interests of those occupying and the interests of those having rights over the land is not at issue.

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 works are needed to formalise a desire line between a land ramp and the East Marsh perimeter path. The desire line is being used to access the L01 Land Bridge which connects the common with Queen Elizabeth Park to the south. An accessible and formal link is needed for pedestrians and cyclists to access the bridge via the existing land ramp (the only current formal connection being steps). The applicant explains that the works will make the common more welcoming to users and allow a better flow of pedestrian and cycle traffic between the common and Queen Elizabeth Park. The OSS does not object to the application and believes the works will improve the public's enjoyment of the common by formalising a desire line.
10. The works, by providing an accessible route to the land bridge, will improve access and use of the common by local people. I conclude that the works will benefit the interests of the neighbourhood and the protection of public rights of access by improving access and recreation on the common.

Nature conservation

11. NE confirmed that it has no comments to make about the application. I am satisfied that there is no evidence before me to indicate that the works will harm nature conservation interests.

Conservation of the landscape

12. The works are intended to improve the visual amenity of the common. The applicant has submitted photographs to show that a number of desire lines have been created

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.

as a result of a lack of a formal route resulting in the common in this area becoming unsightly and worn. The works will help protect the common by encouraging access over a formal path. Desire lines created near the new surfaced path will be top dressed with suitable topsoil and returned to grass. I am satisfied that the intended surfacing (self-binding Breedon Gravel) is in keeping with existing paths on the common. I conclude that the works will help conserve the landscape.

Archaeological remains and features of historic interest

13. I am satisfied that there is no evidence before me to indicate that the works will harm archaeological remains and features of historic interests.

Other matters

14. The applicant has submitted documents³ to demonstrate that the works contribute to the Borough's strategic objectives; these include improving connectivity and promoting health and well-being. I agree that the works will contribute to the strategic objectives and this has added weight to my decision.

Conclusion

15. I conclude that the works will enhance public access and recreation on the common and will not harm the other interests set out in paragraph 7 above. The works are those 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 condition set out at paragraph 1.

Richard Holland

³ Hackney's Sustainable Community Strategy 2008-2018, A Place for Everyone Hackney Council's Corporate Plan to 2018, Hackney Joint Health & Wellbeing Strategy 2015-2018, Hackney Transport Strategy 2015-2025, Draft Local Plan 2033 (LP33).



NORTH

Scale: 1:2,000 at A4



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Produced by: Corporate GIS
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East Marsh Path Formalisation