Planning Inspectorate logo

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| **Application Decision** |
| Site Visit conducted on 23 May 2022 |
| **by Rory Cridland LLB (Hons) PG Dip, Solicitor** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 16 June 2022** |

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| **Application Ref: COM/3293911**  **Streatham Common**  Register Unit No: Unknown  Commons Registration Authority: London Borough of Lambeth |
| * The application, dated 25 February 2022, is made under Article 12 of the Greater London Parks and Open Spaces Order 1967. * The application is made by Lambeth London Borough Council (“the applicant”) to construct temporary works on common land. * The application seeks consent for the creation of temporarily enclosed fenced sites for five temporary events permitted under Article 7 of the Greater London Parks and Open Spaces Order 1967, for fixed periods of time, on the grassed areas of Streatham Common. The temporary structures include fencing, funfair rides and amusements, big top tents concession stands, catering units, gazebos, toilets and welfare facilities, back of house and staff cabins and plant enclosures. |
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Decision

1. Consent for the erection of temporary structures to include fencing, funfair rides and amusements, concession stands, catering units, gazebos, toilets and welfare facilities, back of house and staff cabins and plant enclosures to facilitate the Festival of Great North Wood (18 June 2022) and Bensons Funfair (1 August – 15 August 2022) on parts of Streatham Common (Register Unit: Unknown) is granted in accordance with the application dated 25 February 2022 and accompanying plan.
2. For the purposes of identification only the locations of the relevant works are shown on the attached plan.
3. For the avoidance of doubt, consent for the works proposed for Zippo Circus (25 April – 9 May 2022), Streatham Common Kite Day 2022 (22 May 2022) and Bensons Funfair (23 May - 13 June 2022) as set out in the application dated 25 February 2022 is not granted for the reasons set out below.

**Preliminary Matters**

1. The application, dated 25 February 2022, seeks consent for temporary fencing and other structures in order to facilitate a number of events during the summer of 2022. The events are listed below:
   * + 1. Zippo Circus (25 April – 9 May 2022)
       2. Streatham Common Kite Day 2022 (22 May 2022)
       3. Bensons Funfair (23 May - 13 June 2022)
       4. The Festival of Great North Wood (18 June 2022); and
       5. Bensons Funfair (1 August -15 August 2022).
2. The application was received approximately two months before the start date of the first event listed, and around three months before the start date for the second and third events. As Common Land Guidance Sheet 1a (version updated 16 March 2021) makes clear, the earliest timescale for determination of an application would be three months, where no exchange of written representations is needed and around five months where, as in the present case, such an exchange is necessary. It also makes clear that in cases where a site visit is required this can extend to around ten to twelve months.
3. Clearly, on any measure, the earliest date on which a decision on this application could be expected would be well beyond the date on which many of the events listed in paragraph 4 were intended to take place.
4. The application is not retrospective; it was made in advance of the works, albeit not in a reasonable timescale for the decision to be made. In addition, all the proposed works are temporary and at the time of writing, the first three events have already taken place and any works associated with them removed. As a matter of principle, there is no good reason to provide consent for something which no longer exists. It follows that the outcome for those works must be that the consent is not granted.
5. Accordingly, the remainder of my decision relates solely to the events listed in paragraph 4(iv) and (v).

**Description of the Land**

1. Streatham Common (“the common”) covers a large area of open land in Lambeth and is registered as common land under the Commons Registration Act 1965. The common is owned by the applicant and is sited in a highly populated urban area in London. It is bounded to the north and west by the A214 and the A23 respectively and to the south and east by a number of residential streets.

**Main Issues**

1. Article 12 of the Greater London Parks and Open Spaces Order 1967 (“the 1967 Order”) restricts the erection of any building or other structure on any part of a common to which the 1967 Order applies without consent from the appropriate national body. In determining such applications, Defra’s Common Land Consents Policy (November 2015) advises that regard should be had to matters under section 39 of the Commons Act 2006 (“the 2006 Act”). These include:

a. the interests of those occupying or having rights over the land (and in particular, persons exercising rights of common over it);

b. the interests of the neighbourhood;

c. the public interest; and

d. any other matter considered to be relevant.

1. Section 39(2) of the 2006 Act provides that the ‘public interest’ includes the public interest in:

a. nature conservation;

b. the conservation of the landscape;

c. the protection of public rights of access to any area of land; and

d. the protection of archaeological remains and features of historic interest.

Reasons

***The interests of those occupying or having rights over the land***

1. The common is owned and managed by the applicant which seeks consent for the installation of fencing and other structures associated with the operation of the events listed in paragraph 4 above. The applicant explains that the fences and structures are needed to fully enclose the event sites, facilitate the staging of the events, and to provide food, drink, welfare and toilet facilities. The applicant also states that the events enable it to generate income which is then used to fund projects across the common including maintaining it to a good standard. I accept that this would be in the interests of the applicant.
2. There are no rights of common recorded over the land and there is nothing which would indicate that the proposed works would negatively impact on any others occupying or having rights over it. Consequently, I am satisfied that the proposed works would not negatively impact on the interests of those occupying or having rights over the land.

***The interests of the neighbourhood***

1. The applicant explains that the common has a long history of hosting commercial and charitable public entertainment, leisure and recreation events permitted under Article 7 of the 1967 Order. I accept that both of the remaining events planned for 2022 would promote use and enjoyment of the common both for nearby residents and the wider public. As such, I consider it would be of positive benefit to the neighbourhood.
2. Representations from the Friends of Streatham Common (FOSC) raise concerns with events that would be of long duration or would result in the continuous fencing of the common. However, FOSC also note that a number of events have been held in the past which are popular with the public and that having them contributes to the varied use of the common.
3. I accept that, in view of the wider use of the common by the public for both formal and informal sports and general recreation, temporary fencing over large areas or for long periods would limit access for those seeking to use those areas affected and impact negatively on the interests of the neighbourhood. However, in the present case it is clear that the works sought would be limited, both in their extent and duration. On balance, I do not consider the erection of temporary fencing or associated structures for the periods proposed would have a materially negative impact on the interests of the neighbourhood.

***The public interest***

*Nature conservation and conservation of the landscape*

1. Natural England (“NE”) notes that the site is one of Lambeth’s most important wildlife sites, has been designated as a Site of Importance for Nature Conservation and that part of the common has been designated as a Local Nature Reserve. However, they also note that there are no known areas of high-level biodiversity on the amenity grassland outside these designated sites or in the area where the proposed events are due to take place. Furthermore, I note that similar events have previously taken place and there is nothing to indicate that these have negatively impacted on the site’s biodiversity.
2. In terms of landscape impact, I acknowledge that the proposed works, particularly those associated with Bensons Funfair, would impede views across that part of the common. However, this would be limited and in view of the short periods of time involved, I consider the impact on the landscape would be minimal and would not materially detract from the overall enjoyment of those visiting the site.
3. Consequently, I am satisfied that the proposed works would not have a materially negative impact on the public interest in nature conservation or conservation of the landscape and find no harm in this respect.

*The protection of public rights of access*

1. The public have rights of access both under the Metropolitan Commons Act 1896 as well as under section 193 of the Law of Property Act 1925 which includes access for informal recreation. It was clear from my site visit that these are well used and the common provides an important area of urban greenspace for people to enjoy informal recreation activities.
2. The proposed fencing and other structures associated with Bensons Funfair would, to some extent, inhibit access to parts of the common. However, this would be for a limited period with no more than 10% of the common being unavailable for public use at any one time. Furthermore, there is nothing to suggest that previous, similar events have materially affected use or enjoyment by those wishing to access the common for informal recreation.
3. Moreover, I note that the Festival of Great North Wood has no fencing associated with it and that the proposed structures would have a minimal impact on those wishing to access all parts of the common during that event. I also note that NE consider this event has considerable potential to generate greater awareness and understanding of the natural environment.
4. Accordingly, although the erection of fencing around the perimeter of the Bensons Funfair site would impede public access, this would be for a limited duration and on a small area of the common. A considerable area of the common would remain available for general recreation. As such, I do not consider the fencing off of the area proposed for a limited period of time would materially affect public rights of access to or over the common as a whole.

*Archaeological remains and features of historic interest*

1. The works are temporary and below ground excavation is not proposed. The application notes that there is a buffer area between the site and the nearest archaeological priority area to ensure the proposed works do not impact on nearby heritage assets.
2. Historic England were consulted on the application and have raised no concerns. No other concerns have been raised in this respect and, on the evidence before me, I am satisfied that the proposed works will not harm any archaeological remains or features of historic interest.

*Conclusion on the public interest*

1. While I note there would be some temporary visual impact and a restriction on public access over parts of the common for limited periods of time, overall, I consider there would be no materially prejudicial impact on the public interest.

***Other relevant matters***

1. I note that the proposed works would enable events to proceed that would provide cultural, charitable and social engagement opportunities for different public audiences. They would also increase the variety of ways the common can be used and enjoyed by the public. This would provide a public benefit which I consider weighs positively in favour of the proposal.

**Overall Conclusions**

1. I have found above that the erection of the proposed fencing and other temporary structures would not harm the interests of persons having rights in relation to or occupying the land. I have also found that it would not have a materially negative impact on the interests of the neighbourhood.
2. Furthermore, I do not consider it would negatively impact on the public interest in nature conservation or the conservation of the landscape or on archaeological remains or features of historic interest. While I acknowledge there would be some localised visual impact and a restriction on public access over some small areas of the common for limited periods of time, this needs to be balanced against the cultural, charitable and social engagement opportunities that arise from the facilitation of the events proposed. Overall, and taking into account the limited periods of time that the proposed structures would remain in place, I do not consider there would be any significant impact on the public interest in permitting the works.
3. Accordingly, for the reasons set out above, and having had regard to all other matters raised, I conclude that consent should be granted for the erection of fencing and structures associated with the 2 remaining events, that is the Festival of Great North Wood and Bensons Funfair for the dates and periods set out in the application.

Rory Cridland

Inspector

