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| **Application Decision** |
| **by Harry Wood** |
| **Appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 8 June 2023** |

# Application Ref: COM/3319193

**HACKNEY MARSH, LONDON BOROUGH OF HACKNEY**

Register Unit No: CL 17

Commons Registration Authority: London Borough of Hackney

* The application, dated 21 March 2023, 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:
* Installation of free to access outdoor gym equipment consisting of 8-10 items. Total area is approximately 417m².
* Installation of an open sided canopy to provide partial shelter to the outdoor gym and exercise area.
* Laying of approximately 217m² of rubber safety surface base.
* Installation of seating and planting.

# Decision

1. Consent is granted for the works in accordance with the application dated 21 March 2023 and the plan 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 outlined in red on the attached plan.

# Preliminary Matters

1. I have had regard to Defra’s Common Land Consents Policy Guidance (Defra November 2015) 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.
2. This application has been determined solely on the basis of written evidence.
3. The applicant is unable to specify exactly what the equipment will look like until the tender process for the works has been completed. However, the applicant has provided an illustration of the sort of equipment it requires and I have taken this into account in deciding the application.
4. I have taken account of the representations made by Natural England (NE) and the Open Spaces Society.
5. I am required by section 39 of the Commons Act 2006 (the 2006 Act) to have regard to the following in determining applications under Article 12 of the 1967 Act:-
	1. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
	2. the interests of the neighbourhood;
	3. the public interest (Section 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.); and
	4. any other matter considered to be relevant.

# Reasons

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

1. The landowner is the applicant and there are no rights of common registered. I am satisfied that the works will not harm the interests of those occupying the land and the interests of those having rights is not at issue.

## The interests of the neighbourhood and the protection of public rights of access

1. The interests of the neighbourhood test relates to whether the works will impact the way the common land is used by local people. The applicant explains that the works will provide recreational facilities for the local community. The common is located in densely populated residential area and is an important green space. Previous consultation with the local community (not directly related to the planned works) has indicated that residents would welcome an outdoor gym on the common to enable them to exercise for free. The proposed location for the gym is located close to other structures on the common, including a playground and skatepark, aiming to create a defined activity area while leaving the wider common open in character and minimizing the loss of green space. I conclude that the works will benefit the interests of the neighbourhood and will not unduly harm public rights of access.
2. NE confirm that the site is not subject to any statutory or non-statutory designations for nature conservation and do not anticipate that the works will have any significantly adverse effects on the common’s biodiversity or landscape. The works plan to utilise an area of existing hardstanding to minimize the loss of physical green space. Several young trees will be relocated as part of the works, and replacement trees will be planted if they do not thrive.

11. I consider that the works are in keeping with the urban setting of the common. I am satisfied that there is no evidence before me to indicate that the works will harm nature conservation interests.

## Archaeological remains and features of historic interest

1. I am satisfied that there is no evidence before me to indicate that the works will harm archaeological remains and features of historical interest.

# Conclusion

1. I conclude that the works will enhance local people’s recreational enjoyment of the common and will not unduly impact the other interests set out in paragraph 7 above. Consent for the works is therefore granted subject to the condition set out at paragraph 1.

***Harry Wood***

