Planning Inspectorate logo

|  |
| --- |
| **Application Decision** |
| **by Harry Wood** |
| **Appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 24 September 2024** |

# Application Ref: COM/3347300

**DAUBENEY FIELD, HACKNEY MARSHES, LONDON BOROUGH OF HACKNEY**

Register Unit No: CL 17

Commons Registration Authority: London Borough of Hackney

* The application, dated 27 June 2024, 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 Council).
* The works comprise improving an area on which football is played within Hackney Marsh Adventure Playground by laying a 1m x 15m area (150m²) of macadam and installing a metal multi-sport goals structure at each end.

# Decision

1. Consent is granted for the works in accordance with the application dated 27 June 2024 and the plans submitted with it subject to the following condition.

The works shall begin no later than three years from the date of this decision.

REASON: To provide certainty to users of Daubeney Field.

1. For the purposes of identification only the location of the works is shown outlined in red on the attached plan.

# Preliminary Matters

1. Article 7 of 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.
2. I have had regard to Defra’s Common Land Consents Policy Guidance (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.
3. This application has been determined solely on the basis of written evidence. I have taken account of the representations made by Natural England (NE), Historic England (HE) and Open Spaces Society (OSS), none of which object to the proposed works.
4. 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

1. The Council explains that the Adventure Playground sits between two large housing estates in the east of Hackney and provides free supervised play to children at weekends, after school and during school holidays. Its use is limited during wet weather as most of the facilities are open to the elements. The existing informal pitch area becomes very compacted and muddy during the winter months, restricting its use.
2. The formalisation of the pitch by laying an all-weather macadam surface and installing permanent multi-sport goals will enable the facility to be used throughout the year. The proposals are supported by Sport England, which is funding the works.

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

1. Daubeney Field forms part of Hackney Marshes, which is owned and managed by the Council. The common land register records no rights of common and the Council has indicated that there are no leaseholders or other occupiers to be affected by the proposals. I am satisfied that the works will not harm the interests of those occupying the land and that 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 on the way the common land is used by local people and is closely linked with the interests of public rights of access.
2. The Council advises that Daubeney Fields is managed as an urban park with a number of recreational facilities and pathways contained within it. Following Council engagement with staff and children who use the adventure playground, the most popular request was to improve the existing sports area.
3. I consider that the proposed works will provide improved play facilities for local children on a footprint already in such use without impinging on public access over the wider common and that they are in the interests of the neighbourhood.

## Nature conservation and conservation of the landscape

1. NE advises that the site is not subject to any statutory designations for nature conservation and does not anticipate that the works will have significant adverse effects on the common’s biodiversity. I am satisfied that the works will not harm nature conservation interests.
2. The site is not subject to any particular landscape designation, although the proposed works will inevitably have a visual impact to a certain extent. In particular, the goals structure specification submitted by the Council shows that the basketball ring element will be 1.8m above ground, with the backboard a little higher, and that the metal frame of the goals may be a bright colour. The structures will replace shorter moveable white goal frames, as shown in a photograph submitted by the Council, which have a smaller visual impact.
3. However, the Council explains that the proposed works will be in keeping with the landscape character of the Adventure Playground and I consider that this is likely to be the case. I am satisfied that landscape interests will not be seriously harmed by the works.

## Archaeological remains and features of historic interest

1. The Council advises that the works on site will be minimal. The ground will need to be excavated to provide a base layer for the surfacing and foundations for the multisport goals, but it is anticipated that excavations will be no deeper than 250mm.
2. HE advises that the site lies in an area of archaeological interest (Archaeological Priority Area) but that given the small scale of the proposed works they are unlikely to impact on any buried archaeological remains.
3. I am satisfied that the works are unlikely to harm archaeological remains and features of historical interest.

# Conclusion

1. I conclude that the works will benefit the neighbourhood by providing improved play facilities for local children, which may be used in both dry and wet weather, without seriously harming the other interests set out in paragraph 6 above. The works are those that a local authority may, under Article 7 of the 1967 Act, provide and maintain for persons resorting to the open space and consent for the works is granted subject to the condition set out at paragraph 1.

***Harry Wood***

Plan referred to in Paragraph 2
