

|  |
| --- |
| **Application Decision** |
|  |
| **by Harry Wood** |
| **Appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 28 April 2025** |

|  |
| --- |
| **Application Ref: COM/3349067**  **TOOTING BEC COMMON IN THE LONDON BOROUGHS OF LAMBETH AND WANDSWORTH**  Register Unit Number: CL30  Commons Registration Authority: Wandsworth Borough Council |
| * The application, dated 26 July 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 carry out works on common land. * The application is made by Wandsworth Borough Council. * The works comprise:  1. The demolition of the existing entrance, toilet and shower buildings on the western perimeter of the Lido and the construction of a new building comprising: reception, toilets, and café together with external secure bicycle parking with a build footprint of approximately 178m³. 2. Construction of new facilities on either side of the existing café building providing male and female shower facilities, together with a shelter/club room with a build footprint of approximately 220m³. 3. Construction of new gender-neutral toilets on the eastern boundary of the site with a build footprint of approximately 56m³. 4. Temporary use of panels laid on the construction traffic access/egress route on the common between the Lido car park and the entrance to the Lido enclosure to protect the grass surface, covering approximately 450m³. |
|  |
|  |

**Decision**

1. Consent is granted for the works in accordance with the application dated 26 July 2024 and the plans submitted with it subject to the following conditions:
2. the works shall begin no later than three years from the date of this decision;

REASON: To provide certainty to users of Tooting Bec Common;

1. the land shall be fully reinstated within one month from the completion of the works (note that this does not apply to any physical changes or permanent features introduced as part of the works for which consent is granted);

REASON: To retain access for commoners and the public across Tooting Bec Common;

1. any temporary fencing/panels shall be removed within one month of completion of the works.

REASON: To retain access for commoners and the public over Tooting Bec Common.

1. For the purposes of identification only the location of the works is shown in the 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) states 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 (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.
3. This application has been determined solely on the basis of written evidence. I have taken account of the representations made by the Open Spaces Society (OSS), Natural England (NE), Annie Davis, B. Ryan, Charles Stack, Friends of Tooting Common (FTC), Henry Clarke and Olivia Johnston.

**Main Issues**

1. 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:
2. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
3. the interests of the neighbourhood;
4. 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;
5. any other matter considered to be relevant.

**Reasons**

1. The applicant explains that the proposed works will replace and upgrade the current facilities on site, referred to as the Lido, that are considered to be in poor condition and no longer cater for the needs of Lido users, and of the wider Common.
2. They outline that the proposed works will be carried out in three phases. The aim is to complete all the construction phases by or before the end of April 2027. Consent is sought for the approved works to be completed by no later than April 2028 to accommodate any delays in the works that might occur due to poor weather or other unforeseen circumstances.
3. The overall intention is to ensure that the Lido can remain open to all visitors during the summer seasons.

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

1. The Council is the owner of the land and the Common land register records no rights of Common.
2. I am satisfied that the works will not harm the interests of those occupying the land and the interests of those having rights over the land.

***The interests of the neighbourhood and public access***

1. The interests of the neighbourhood relate to whether the works will unacceptably interfere with the way the Common land is used by local people and is closely linked with interests of public access.
2. Tooting Bec Common is a green space surrounded by an urban environment and an area of green space available for the use of those living close by. The Common is formed of multiple areas of wide-open green spaces with trees bordering the fields. The facility to which this consent relates to is located on the east side of the Common.
3. The proposed works sit within and are replacements of the buildings currently located in the Lidos footprint with the aim being to upgrade the facilities that are available to users of the Lido apart from the temporary works that will take place outside of the facility near the access track of the facility.
4. The aim of the works is to repurpose and upgrade the facilities and existing structures on the Common. Although the footprint of these structures may change, they will still be within the existing facility of the Lido and therefore they will not introduce any new obstruction to access to the Common. I believe the works will not adversely affect public access to the Common and the applicant intends to keep access to the Lido open while the works are taking place.
5. The temporary works would impact access to the Common by blocking access to the areas of the Common where the works are taking place. However, the impact will be minimal when considering the overall size of the Common, which will also remain accessible via other routes.
6. I am satisfied that restricting access to the works site is appropriate on health and safety grounds and that temporary obstructions will be removed on completion of the works, which can be secured by attaching a suitable condition to the consent.
7. NE have stated the following regarding the works: “…From the plans provided there will clearly be some temporary restrictions on the public’s ability to access the immediate area around the Lido to the south whilst the works are being processed […] in view of the temporary nature of the works outside of the current footprint of the Lido area and subject to all of the conditions associated with the planning permissions being complied with, we have no concerns with the works as it relates to our remit.”
8. General concerns were also received by a number of representatives about loss of use of the lido while the works where taking place and the materials planned to be used in the construction of the new facilities.
9. In response to these concerns the applicant highlighted that “All of the materials and treatments proposed for use in the proposed works have been specifically selected to minimise the need for additional/ongoing maintenance and to integrate with their surrounding/adjacent environments.” and that they plan to keep the Lido operational for the duration of the works.
10. In conclusion I am satisfied that the proposed works will not harm the interests of public access and the way the Common is currently used.

***Nature conservation and conservation of the landscape***

1. As well as the public interest in the protection of public rights of access, I must also have regard to the public interest in nature conservation, the conservation of the landscape and the protection of archaeological remains and features of historic interest.
2. NE advises “that Tooting Bec Common is not subject to any statutory designations for nature conservation and from the information available to us we do not anticipate that the works will have any significant adverse effect on such sites for which Natural England is the regulatory authority.”
3. OSS have raised concerns on the sites effect and impact on the landscape of the Common stating “The Society is, […] concerned at the unnecessary height of the entrance structure. While this may or may not be higher or lower than the existing entrance the height is far beyond that which is necessary. Further the Society sees no need for the large "Tooting Bec Lido" signage such as is proposed above the entrance”.
4. They further outline “The new structures were permitted, visible from across the Common, after the Inspector conducting the inquiry had heard evidence from the council that new and restored planting would conceal the new entrance from view. This planting has never materialised and the blue and intrusive lido entrance has been a blot on the landscape ever since.”

1. The comments here appear to be in reference to historical planning permissions. While we note these points, the Inspectorate’s role in this case is to determine the effects that the proposed works will have on the Common and not to offer comment on other permissions the applicant may require to carry out the works or their implementation.
2. In response the applicant has highlighted that the proposed structure is lower than the current structures and provides a covered entrance area for visitors under a planted bio-diverse green roof. The provision of the covered entrance is in response to feedback from users of the Lido.
3. They continue that “In response to feedback received during the pre-planning engagement the proposed “Tooting Bec Lido” signage was re-positioned to be suspended from the entrance structure roof rather than the original proposal to mount it on/above the roof.”
4. OSS have maintained their objection stating that “… no visuals have been supplied with which to assess the visual impact of the proposed structure from across the common, and its effect on the natural setting of the common, which must be an overriding factor in determining whether consent should be given. The fact that the proposed structure may or may not be higher than the existing entrance is really not relevant. It is the impact of the proposed structure that is to be considered.”
5. Having enquired with the applicant about the use of tree planting to obscure the view of the lido the following response was provided “The intention is to preserve the existing mature trees as they partially screen the views, however there is no intention to plant any new trees or shrubs here as the area immediately in front of this entrance is an area of modified grassland which is contiguous with acid grassland. Tooting Commons are a Site of Metropolitan Importance for biodiversity and as such there are long term plans in place to enhance and extend this acid grassland which is a Local Nature Recovery Strategy priority biodiversity habitat for London. This habitat is adversely affected by trees and shrubs and planting any here would be inappropriate.”
6. They further outline that this is highlighted in their approved planning permission 2023/2496 and that Tooting Bec Common supports good quality semi-improved grassland, with potential for restoration. It has been recommended to the applicant that enhancements completed as part of the development include a contribution to ongoing restoration and management of areas of acid grassland within Tooting Bec Common. This has been secured through condition 5 of the planning decision notice.
7. The applicant also states that “[the] majority of the "Lido field" across which are the long-distance views to this proposed entrance, is given to grass sports pitches and as such the planting of trees or shrubs is not practical.”
8. In coming to a decision here particular focus must be given to considering the overall impact the works will have on the Common’s landscape value.
9. The Common Land Consents Policy highlights that weight must be given to what will be the impact on the landscape if a proposal proceeds. Will the impact include an adverse effect on the enjoyment of the remaining part of the Common or green and what consideration has been given to minimising any impact by good design.
10. As OSS have highlighted consideration must be given to the impact of the structure on the landscape of the Common. However, in terms of balance we must also consider that these works are for the alteration of buildings and structures that already exist on the Common. The key issue, therefore, is whether the alterations will have a negative impact on the value of the landscape overall.
11. The applicant has provided detailed plans that highlight the new structures will be made from more natural materials and coloured in a way that makes them blend in more with the surrounding features of the Common. These would be more suitable than the current materials of the lido that are metallic or blue in colour.
12. It is my view that a structure of equal or lower height will not negatively impact the landscape value of the Common any more than then the existing structure. It is also my view that the works will not introduce additional features into the landscape, as the proposals plan to modify existing structures.
13. The existing structures and facility do have an impact on the landscape of the Common and the enjoyment of users’ views over the Common in this area, as it is an urbanising feature. However, when it is considered that the planned works are for the alteration of existing structures on the Common and that no works will take place outside the existing lido footprint, it is my view that such works will not adversely impact the Common more than the current structures.
14. I am satisfied that nature conservation interests will not be harmed by the works, and I consider that overall, the works will not have an overall negative impact on landscape interests.

***Protection of archaeological remains and features of historic interest.***

1. The applicant has stated that there are no archaeological features within the proposed works area. Historic England and the local authority archaeological service have been consulted and not commented.
2. There is no evidence before me to suggest that these interests will be harmed by the proposed works.

***Conclusion***

1. I conclude that the works will benefit the neighbourhood by providing improved recreation facilities for the wider community 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

Figure 1 – Outline of area for works

