

Friends of Haven Green



Keeping Haven Green at the Heart of Ealing

The Common Land Team,
The Planning Inspectorate,
3F Temple Quay House
2 The Square,
Temple Quay
Bristol BS1 6PN

3 November 2016

Dear PINS

**Haven Green London W5 London Borough of Ealing
Application for retention of works to common land**

Objections of the Friends of Haven Green

Background

1. Friends of Haven Green was established in 2011 as a voluntary group of local Ealing people which aims to protect the public good. FoHG's constitution explains its aims as being:

'to secure the conservation, protection and improvement of Haven Green and its environs as an important place of local historic, architectural, ecological and aesthetic significance and to safeguard the public right to the quiet enjoyment of the Green.'
2. Haven Green is registered as common land under the Commons Registration Act 1965 on 28 June 1968. The Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967 and s38 of the Commons Act 2006 govern what works may be done on common land.
3. Haven Green is also the heart of the Haven Green Conservation Area, and one of Ealing's most important heritage assets. Historic England's latest register of Assets at Risks lists Haven Green as 'deteriorating significantly.'
4. The application seeks to legitimise the installation of part of a cycle hub that LBE constructed unlawfully in 2012. FoHG and others objected to the construction of the hub at every stage in its design and construction including by detailing to the Council its duties under Common land legislation, and through formal complaints

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to LBE's Chief Executive and the Local Government Ombudsman. Despite our efforts, LBE refused to accept our case that the works were on common land and were unlawful. It is only through a claim FoHG has made to the Courts (Claim No: B00CL947) against this and other encroachments (including the CCTV poles) by the Council that LBE fear they will lose, that led to this retrospective application.

5. This retrospective application is therefore an attempt to rectify unlawful actions by the Council which refused to comply with legislation it was well aware of until our application to the Court. For this reason alone it should not be approved. Approval would give a green light to LBE and other Councils to undertake works on statutorily safeguarded land by failing to follow prescribed application procedures.

Response to application to retain the Cycle Hub

6. FoHG objects to the application to retain the cycle hub structure and the access road for the following reasons:
7. The hub's prominent location on the Green, a relatively small area of Common at the very heart of the borough, means it impacts disproportionately on the common land:
 - It obstructs views across the Common, especially from the forecourt of the station, where the Green ought to be providing a gateway to visitors. What greets visitors now is the clutter of parked bikes.
 - It visually encloses the Green as a place that has always been open and unenclosed.
 - It very presence obstructs access to the Common Land, which legislation safeguards.

FoHG has raised these legitimate concerns repeatedly with LBE but our representations were ignored until, as a last resort we initiated legal action in order that provisions of the legislation should be observed.

8. Contrary to the justification in this application, the cycle hub and access road have nothing to do with Haven Green. Instead, and as LBE's concurrent application to deregister the Green as Common land makes great issue of, their purpose is as part of the Ealing Broadway Transport interchange centred on the

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station across the road. FoHG recognises very well that the facilities the cycle hub provides help to meet a growing demand by cyclists for parking their bikes as part of their daily commute. FoHG supports cycling as a cleaner, healthier and more sustainable way of getting around. However, very few of those who use the hub are likely to be doing so as part of their enjoyment of the Green. The demand for cycle parking is driven almost in its entirety by the station next door and, and with the arrival of Crossrail, the numbers of cyclists needing to park a bike will continue to grow. The authority has a clear and obvious duty to manage this demand, but it should not have done this by installing the facilities on common land that primary legislation protects for use for other purposes.

9. It also needs saying that the Council had every opportunity to ensure provision was made for cycle parking within the station. Extensive works are now underway to refurbish the station, as part of Crossrail. FoHG and others implored the Council to require Crossrail to make provision for cyclists as part of the these works, but it repeatedly refused, and the present plans for the station contain almost no provision at all for cycle parking despite the pressures cyclists are putting on the area. Even now, it ought to be possible to amend Crossrail's plans to rectify this omission.
10. FoHG disputes the Council's argument (para 13 of its detailed justification) that construction of the hub is justified by the fact that the land was previously an area of hardstanding on which cycle stands had previously stood. The fact that the Council had previously surfaced the lozenge, and installed a few cycle racks on it does not impinge on its status as common land, or its value in providing open views across the Green. Before and after photos in illustrate the extent to which the new structures have closed the Green's previously open views.

Response to application to retain the CCTV Poles

11. FoHG objects to the retention of the CCTV poles which the Council also installed without obtaining necessary consent. Though of no great circumference, their presence has the effect of preventing or impeding access to or over any land to which this section (s38(1)) of the Commons Act applies this means that they are restricted works for which the consent of the Secretary of State is required.
12. The CCTV poles were erected at around the time the cycle hub was constructed and their main purpose appears to be to monitor activity around it. The poles

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constitute unsightly clutter of which there is already far too much in and around the Green. Though relatively minor elements in themselves, their very presence attracts further clutter which detracts from the open quality of the Common land – especially as the Council and the public use them to attach notices to the poles. There are many alternative sites for the poles not on common land which could be used for were the poles to be relocated, as FoHG believes they should.

Conclusion

13. FoHG considers that the Cycle hub and CCTV poles are unlawful and alien elements on the Green, which could and should have been installed on land not safeguarded by legislation. For these reasons we believe that consent for their retention should be refused and they should be removed.

Greg Phelan
Chair
Friends of Haven Green