

**Application for retention of works to common land
Article 12 Greater London Parks and Open Spaces Act 1967
Haven Green London W5**

Introduction

1. This is an application brought by Ealing London Borough Council (“Ealing”) under Article 12 of the 1967 Act (“the 1967 Act”) for retention of a) a cycle hub and b) 2 no CCTV poles at Haven Green. The extent of the Green is shown on the attached plan (appendix 1).
2. The application is made in the alternative to an application (“the principal application”) to deregister part of the Green (ie that part occupied by the cycle hub) under s16 of the Commons Act 2006 (“the 2006 Act”). The reason for the principal application is to ensure that there is no doubt that the continued operation of the cycle hub is lawful in light of an argument made by the Friends of Haven Green (“FoHG”), a local amenity group, that it comprises “restricted works” under s38 of the 2006 Act. In the context of ongoing proceedings under s41 of that Act, FoHG has requested that Ealing makes this application in the alternative to retain the cycle hub on the common land. Deregistration of the land in question is considered to be the most appropriate option and Ealing invites the Secretary of State to grant the principal application. In the alternative, however, it is considered that there are strong arguments for retaining the cycle hub on the common land, for the reasons set out below.
3. This application also independently seeks to retain two CCTV poles.
4. The principal application is due to be heard at a hearing on 17-18 January 2017, Ealing asks the Planning Inspectorate (“PINS”) and invites the Inspector to hear and determine the two applications together.

Details

5. Haven Green is an area of common land in the heart of Ealing, immediately opposite Ealing Broadway Station. It is surrounded by highway, housing and businesses; it abuts and to some extent incorporates a taxi rank, bus stops and paths leading to and from the town centre. It was registered as common land under the Commons Registration Act 1965 on 28 June 1968 (see appendix 2).
6. The position of the cycle hub is shown marked on the Plan in red. It is a paved island of land cut off from the remainder of Haven Green on one side by highway and on the other by the taxi rank. The island measures approximately 179 m².
7. The CCTV poles are shown on the attached Plan B encircled in red. Additionally there are a number of CCTV poles surrounding the cycle hub. The application to retain the cycle hub is to be taken as an application to retain those poles.

Summary of Application

8. Ealing has had regard to PINS' Guidance Sheet 2D, and Article 7 of the 1967 Act. Article 7 provides the following relevant powers:

*“(1) A local authority may in any open space—
(a) provide and maintain—*

...

(ii) golf courses and grounds, tracks, lawns, courts greens and such other open air facilities as the local authority think fit for any form of recreation whatsoever (being facilities which the local authority are not otherwise specifically authorised to provide under this or any other enactment);

...

(v) indoor facilities for any form of recreation whatsoever;

...

(e) provide and maintain swings, platforms, screens, chairs, seats, lockers, towels, costumes and any apparatus, appliances, equipment or conveniences necessary or desirable for persons resorting to the open space;

(f) erect and maintain for or in connection with any purpose relating to the open space such buildings or structures as they consider necessary or desirable including (without prejudice to the generality of this paragraph) buildings for the accommodation of keepers and other persons employed in connection with the open space ...”

9. As far as the cycle hub is concerned Ealing considers that this is a facility for “*any form of recreation whatsoever*”, alternatively it is a facility that relates to the existing open space, inasmuch as it is available for users, encourages alternatives to car use and reflects historic use of the island.
10. As far as the CCTV poles are concerned, Ealing considers that these relate to the open space as they ensure the safety of users of the Green.
11. As required by the Guidance Sheet, the Council also had regard to s39 of the 2006 Act, in particular:
- (a) the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
 - (b) the interests of the neighbourhood;
 - (c) the public interest, which includes the public interest in nature conservation, the conservation of the landscape, the protection of public rights of access, and the protection of archaeological remains and features of historic interest;
 - (d) any other matter considered to be relevant.
12. As will be clear from the application form, no persons have any rights of common. The interests of the neighbourhood have been fully considered. The cycle hub is extremely popular and the CCTV system ensures the safety of users of the Green.

The Cycle Hub

13. The plan attached as appendix 3 shows the site in 1957, which shows use as a cycle stand was extant at that time. Photos taken in 2008 (appendix 4) show the land in use for cycle parking. The cycle hub is on a traffic island between the highway crossing the Green and a taxi parking/access road. It is significant that this part of the Green has for many decades been paved and used for cycle parking without any impact on the public use or access. Moreover, it has always been cut off from the rest of Haven Green (as the original registration plans show) and is functionally separate. It cannot effectively be used for leisure purposes such as sitting out or playing games. Nor does the cycle hub prevent public to or across the island.
14. The present cycle hub was erected in 2012 following liaison with Transport for London and interested residents' groups. Relevant documentation is attached as appendix 5. The cycle hub is extremely well used and has been since day of opening, with a 92% average occupancy. The design of the hub provides shelter and security for cyclists, users of the common and others. It does not prevent access to the Green, and pedestrians may readily pass both around and through the hub when cycles are parked.
15. Haven Green is used by a wide cross-section of local people for a variety of activities, including enjoying the green space, as a pedestrian route to the town centre, and as transport interchange for buses and taxis. The cycle hub supports this mix of uses. It is an essential facility that enables local residents and users of the common safely to store their bicycles. It also provides an important facility supporting outdoor recreation. In terms of impact on the Green, the cycle hub does not prevent local residents using Haven Green in the way that they are accustomed to. Confirming the status of the cycle hub would be a positive benefit.
16. In terms of the wider public interest, the cycle hub is not considered to have any impact on nature conservation, conservation of the landscape, and protection of public rights of access, due to the nature of the land it occupies. There are no archaeological remains or features of historic interest.

The CCTV Poles

17. The CCTV poles provide surveillance over the Green, which is considered to be both desirable and necessary. There is a clear and identified need for the current CCTV installation to remain in its current location in Haven Green. The site is at the centre of a major West London transport hub which sees thousands of passage each week, and with the addition of the recent Night Tube service, the site is active on a 24 hour basis.

Added to this, the site is in close proximity to the Ealing Broadway town centre and its busy night economy and as such Haven Green is often used as a thoroughfare for people coming and going from the area late in the evening and at night.

The current CCTV provision is regularly utilised by the control room for a number of purposes including monitoring individuals of concern moving through the area from the nearby tube station, monitor the Green and its surrounds for instances of anti-social

behaviour or crime, having an oversight of the bus stops located through the centre of the Green where many local residents congregate to wait for local transport links.

A further significant benefit is the level of reassurance the presence of cameras gives to residents as they move through the area along with the preventative aspects of having cameras present this location, which in turn discourages potential anti-social behaviour or targeted crime in the vicinity.

The CCTV poles have a minimal impact on the Green in terms of access or visual amenity.

Consultation

18. As part of the planning process, local residents and interest groups were fully consulted about the cycle hub prior to its installation (see appendix 8). Whilst concerns were raised by FoHG and Ealing Civic Society (as addressed by the planning officer within the report), there were no objections from the Council's Conservation and Tree teams, the proposal was supported by a resident, and strongly welcomed by the Ealing Cycling Campaign.
19. Local residents have also been made aware of this application. Indeed, as above, FoHG requested that this application be made by Ealing.

Conclusion

20. It is Ealing's contention that a wider public interest is being served by the retention of the cycle hub and CCTV poles, since the hub is providing a valuable and well-used resource which is encouraging alternative means of transport, and CCTV increases the safety and sense of well-being of uses of the Green.
21. The area on which the cycle hub is located has for many decades been an area of hard standing and has a long-standing history of use for cycling-related activities. The retention of the cycle hub is considered to be the best possible use of this part of the Green. The cycle hub is a positive benefit to the neighbourhood. It has no material impact on access to or from Haven Green. It is an attractive permeable structure on a traffic island.
22. To the extent necessary, Ealing therefore urges the Inspector to grant this application so that both the cycle hub and the CCTV poles can be retained.