

Tooting Triangle – Common Land Application Inquiry
Legislation and Guidance

	Act/ Guidance	Key points
1.	Metropolitan Commons Act 1866 (the 1866 Act)	<p>An Act to make provision for the improvement, protection, and management of Commons near the Metropolis. This enabled local authorities within this region to use rates incomes to maintain and protect common lands within their areas.</p> <p>Under section 5 of the Metropolitan Commons Act 1866 (the 1866 Act) (as amended by the Commons Act 2006), no “inclosure” can be made on a metropolitan common which is controlled and managed by a London Borough council. Any structure which excludes the public from the common (e.g. a building, fence, or wall) amounts to an “inclosure” so consent cannot be given for such works.</p> <p>(MHLGPOC 1967 qualifies this prohibition under Article 7 if facilities are for recreation, though Article 12 makes clear Ministerial consent is required where there is a building, structure or permanent enclosure- see further detail in point 4 below)</p>
2.	The Metropolitan Commons Supplemental Act 1873 and Scheme	<p>An act to confirm a scheme under the Metropolitan Commons Act 1866 relating to Tooting Bec Common. This gave power to the then Metropolitan Board of Works to manage the Common. Any powers that body have will now be with Wandsworth LBC.</p>
3.	The Commons Act 1965	<p>An Act to provide for the registration of common land and of town or village greens; to amend the law as to prescriptive claims to rights of common; and for purposes connected therewith. Pursuant to this Act, the Common was registered with the former Greater London Council on 21.11.67, which at that time was the commons registration authority for the area.</p>
4.	The Ministry of Housing and Local Government Provisional Order Confirmation, (Greater London Parks and Open Spaces) Act 1967	<p>Wandsworth LBC’s application for consent is under Article 12 of this Act.</p> <p>Article 7 qualifies the general prohibition against ‘inclosures’ on a common in section 5 of the Metropolitan Commons Act 1866. It states that specified facilities may be provided on a metropolitan common (which is controlled and managed by a London Borough council) if they are for public recreation. However, Article 12</p>

		<p>clarifies that if such facilities require a building or structure or permanent enclosure they cannot be provided without the consent of the Minister.</p> <p>(Article 7 has been amended by section 6 of the GLC (General Powers) Act 1984 and Section 53, Schedule 4 and Schedule 6 of the Commons Act 2006)</p>
5.	Commons Act 2006	<p>An Act to make provision about common land and town or village greens; and for connected purposes.</p> <p>Applications under Article 12 of MHLGPOC 1967 are subject to many of the procedures (SI 2007 No. 2588) as applications under section 38 of the Commons Act 2006 (the "2006 Act").</p> <p>When deciding an application under Article 12 regard is given to the criteria in section 39 of the 2006 Act:-</p> <p>(a) the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);</p> <p>(b) the interests of the neighbourhood;</p> <p>(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;</p> <p>(d) any other matter considered to be relevant.</p>
6.	Common Land Policy Statement 2015 CORE DOCUMENT 21	The Common Land consents policy (published by Defra in November 2015) sets out points evidence needs to demonstrate- who has rights, the 'neighbourhood', conservation, etc.
7.	PINS Common Land Guidance Sheet 2d CORE DOCUMENT 22	Provides a summary of the relevant Acts and how they interconnect in relation to different types of applications regarding facilities for public recreation and street movement, including the Article 12 (MHLGPOC 1967) application for consent which Wandsworth LBC have made in this instance.