

**ARTICLE 12 OF THE GREATER LONDON PARKS AND OPEN
SPACES ORDER 1967**

**PROPOSED WORKS ON TOOTING BEC COMMON
APPLICATION REFERENCE NUMBER COM/3263104**

STATEMENT OF CASE OF THE APPLICANT, THE LONDON BOROUGH OF WANDSWORTH

1. The Applicant, the London Borough of Wandsworth, seeks consent from the Secretary of State for the Environment, Food and Rural Affairs pursuant to article 12 of the Schedule to the Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967 (“the 1967 Act”).
2. Article 7 of the Schedule to the Act empowers a local authority in Greater London to provide a range of facilities, broadly of a sporting or recreational form, on any open space. This power includes (a) a power to erect for or in connection with any purpose relating to the open space such buildings or structures as they consider necessary or desirable (Art.7(f)) and (b) to set apart or enclose land in connection with any matter referred to in Art.7 (Art.7(g)).
3. Art.7 is subject to Art.12 of the Act. Art.12 provides that on a common consent is required to erect any building or other structure or to enclose permanently any part of the common.
4. The Applicant is the owner of Tooting Bec Common. Tooting Bec Common is a registered metropolitan common. On part of Tooting Bec Common there is an area known as Tooting Triangle. Within that area are two buildings, linked by a roofed corridor (passageway), one of which is used as a boxing club. The other building was used formerly as a children’s centre/facility provided by the Council. That centre/facility has now ceased . Both buildings are long established. There is an existing enclosed area of garden beyond the buildings. Beyond the enclosed garden is a “red-gra” sport pitch. The pitch was formerly enclosed by a fence which was intended to facilitate its use. That fence was removed on three of its four side when it became dilapidated and thereby dangerous. There are floodlights in place around the

sports pitch, which are operational and for which there is no restriction in terms of hours of use.

5. The Applicant wishes to carry out works to the buildings and to the sports pitch.
6. It has secured planning permission for those works.
7. The nature of the works is described in Mr. Cooper-Grundy's proof of evidence and in Mr.Lowndes proof of evidence.
8. Some of the works need consent under Art. 12, since they comprise the "erection of a building" (in the form of an extension to the existing building and replacement and additional floodlight columns) on common land as well as the permanent enclosure of common land (in the form of replacement fencing around the playing pitch. The majority of the proposed works do not need consent beyond the planning permission which has been granted and in particular do not need consent under Art.12. No consent is required for the uses proposed nor for the management arrangements intended to be implemented.
9. The Applicant's case in support of its application is set out in the proofs of evidence of four witnesses, namely Mr.Simon Cooper-Grundy, Mr.Chris Warren, Ms.Valerie Selby and Mr.Michael Lowndes, together with supporting documents submitted with the application and provided as Core Documents.
10. We will not, in this statement of case, repeat or rehearse that evidence.
11. With regard to the relevant considerations which will inform the determination of the application, Common Land Guidance Sheet 2d provides, inter alia, that in determining an application made under Art.12 of the Act, the Secretary of State (and his inspectors) will have regard to the criteria set out in s.39 of the Commons Act 2006. Those are:
 - a. the interests of persons having rights in relation to, or occupying, the land;
 - 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 and the protection of archaeological remains and features of historic interest; and
 - d. any other matter considered to be relevant.
12. The guidance on the scope of those considerations is set out in the Secretary of State's Common Land Consent Policy 2015.

13. The application of those statutory considerations and the Secretary of State's Policy is addressed in the Applicant's evidence.

14. In summary, the Applicant's case in respect of each of those statutory considerations is as follows:

- a. no commoner or other having rights over the common are affected by the proposals (see evidence of Mr.Cooper-Grundy);
- b. the application site comprises the buildings and associated garden and a playing pitch. The application site is used current for recreational purposes. That recreational use is long established. The existing facilities are in poor condition. The proposals will provide enhancements to the buildings through modest expansion, repair and refurbishment, as well as providing improved training facilities and public toilets. The improvements will allow a children's stay and play facility to be reintroduced within the buildings along with a café. These facilities will be of particular benefit to those using the adjoining children's play area. The proposals will reintroduce fencing around the playing pitch as well as replacement floodlighting, to improve the utility of the playing pitch and opportunities for its use (as well as providing a new improved and flexible playing surface and drainage). The interest of the neighbourhood and therefore the most likely users of the facility and the Common more generally will be significantly enhanced.
- c. The proposals will be entirely sympathetic to the townscape and landscape of the Common, confined as they are to an area of established built form and recreational uses. Nature conservation interests will be improved through tree planting and replacement floodlighting, which is designed to reduce light spill and will be controlled in terms of its use by planning condition. Other elements of nature conservation interest within the wider Tooting Common will remain unaffected (see Ms.Selby's proof of evidence). No archaeological interest or elements of the historic environment are materially affected. Opportunities for public recreation in an established recreational location on the Common will be improved.

15. The Applicant submit that the works proposed as a whole and specifically those for which consent under Art.12 is sought will deliver considerable benefits to the neighbourhood and to the public interest. No harm will arise.

16. Consent under Art.12 should therefore be granted.

12 April 2022.