

**Case Name:** Shaman, R (on the application of) v London Borough of Lambeth [2025] EWHC 1372 (Admin) (16 May 2025)

**Full case:** [Click here](#)

**Commentary:** This was a successful challenge to the decision of the London Borough of Lambeth (the "Council") to grant the interested party, Summer Events Limited, a Certificate of Lawfulness of Proposed Use or Development ("CLOPUD") for the use of Brockwell Park for a series of festival events known as Brockwell Live 2025.

The CLOPUD had been granted on the basis that the use fell within Schedule 2, Part 4, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the GPDO") allows the use of any land for any purpose for not more than 28 days in total in any calendar year. It was held that in considering the duration of a proposed temporary use of land, the decision maker must determine not only the date on which the change to that temporary use is to occur but also the date on which the land is to revert to its normal use which in this case was 37 days. The possible future grant of planning permission for the Lambeth Country Show for the last two weeks of the period was a legally irrelevant consideration that should not have been taken into account by the Council.

## Facts

The Council issued a CLOPUD on 27 March 2025 in the following terms:

*"The London Borough of Lambeth hereby certifies that on 2 January 2025 (the date of this application) the use/operations as described in the First Schedule to this Certificate in respect of the land specified in the Second Schedule to this Certificate and edged with a thick red line on the plan attached to this Certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended) for the following reason(s):*

*'The temporary use, in 2025, of parts of Brockwell Park together with the provision and set up of associated temporary structures and infrastructure, in order to accommodate the events would, having regard to the nature and duration of those events and to the nature and duration of organised events already held in the park in the same Calendar Year fall within the scope of the permitted development rights contained in Schedule 2, Part 4, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015. As such, the proposed development is considered lawful.'*

Schedule 2, Part 4, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("the GPDO") allows the use of any land for any purpose for not more than 28 days in total in any calendar year ("Class B").

The first schedule described the following use:

*"Application for Certificate of Lawfulness (Proposed) with respect to Brockwell Live 2025 (the 'Events') from Friday 23 May 2025 to Sunday 1 June 2025. The build period for the Events will commence on May 11, 2025 until the first event on 23 May 2025. With the above use/operations in accordance with the details in the following plans and documents: BL licensed area, BL25V1.0; red line with vehicle access plus emergency access; Whole site overview South Gate. Cover letter dated 29/12/2024; build and break 2025; BWL and LCS '25 stage usage."*

"Build and Break 2025" referred to a document submitted by the applicant showing a daily table of activities, comprising a programme of 37 days in duration. "BWL and LCS '25 stage usage" referred to another document submitted by the applicant showing daily stage usage, including on dates up to 8 June.

## Grounds

The claimant local resident challenged the Council's decision to issue the certificate on the two following grounds:

Ground 1 – The defendant erred in law in concluding that the development enjoyed the benefit of permitted development rights in circumstances where it was clear that the temporary use extended beyond the 28 days permitted by Class B.

The claimant submitted in relation to Ground 1 that the proposed use of the park was for a period in excess of 28 days. The *Build and break* table showed that, following the conclusion of Brockwell Live, there would be a period of de-rigging but the fenced enclosure would remain to accommodate the Lambeth Country Show on 7 & 8 June, with full load being completed on Monday 16 June. The temporary use endured until the land reverted to its normal use and, on the basis of the proposed use described in the application, the temporary use would therefore be in place for a period of 37 days.

The defendant submitted the officer had properly certified the lawfulness of the use of the park for the dates specified in the first schedule, i.e. up to 1 June. That period of 22 days was within the permitted development right.

Ground 2 – The defendant failed to have regard to a material consideration, or reached an irrational conclusion, in granting a certificate despite the interested party's own information demonstrating that it required a de-rig process which would extend the use beyond what remained of the 28 days provided for by Class B.

The claimant submitted the planning officer had erred in excluding the period following the conclusion of Brockwell Live events on 1 June. The reasoning given in the officer's report for excluding the period between 2 June and 16 June was that the officer had placed reliance on the prospect that the activities proposed for those dates, including the holding of the Lambeth Country Show, would be the subject of the later grant of planning permission. The claimant submitted that was an error of law and, as a result, the officer had failed to take into account the activities up to 16 June (the date the land reverted to its normal use as public open space).

The defendant submitted that the officer had recognised that event-related activities were proposed to continue after 1 June, but her approach was lawful. Either the activities beyond 1 June would be authorised by the planning permission applied for or, failing that, the use would have to cease on the 28<sup>th</sup> day and the site be cleared on the remaining days within that 28-day period under Class B.

## **Judgment**

### Ground 1 –

The judge agreed with the claimant's submissions. The question raised by the application was whether the proposed change of use of the park from use as a park (public open space) to use as a temporary event space was authorised by Class B. Based on the information provided by the applicant, the use of the park would not revert to its normal use as a park until full site load out was completed on 16 June. In considering the duration of a proposed temporary use of land, the decision maker must determine the date on which the change occurs but also the date on which the land reverts to its normal use. On the evidence supplied, the duration was 37 days.

### Ground 2 –

The judge agreed with the claimant. In discounting the use beyond 1 June on the basis that planning permission might be granted to authorise the Lambeth Country Show, the officer had taken into account a legally irrelevant consideration. The statutory test for lawfulness is that stated in section 191(2) of the Town and Country Planning Act 1990. The mere possibility of a future grant of planning permission for a proposed use provides no proper basis for a conclusion that enforcement action may not be taken against that use.

The alternative analysis that the use would have to cease on the 28<sup>th</sup> day was also wrong based on the use described in the application. It was clear that the proposed use would continue beyond the 28<sup>th</sup> day, since the temporary event use described in the application and its supporting tables was to endure until the 37<sup>th</sup> day following its commencement.

Applying the critical factor of duration to the use described in the application, the decision to grant the certificate was irrational.

Both grounds of challenge were made out and an order was made to quash the certificate.

*Case summary prepared by Anna Sidebottom*