
Application Decision

by Richard Holland

Appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date 1 May 2019

Application Ref: COM/3221459

Martin Down, Hampshire

Register Unit No: CL 57

Commons Registration Authority: Hampshire County Council

- The application, dated 28 January 2019, is made under Section 38 of the Commons Act 2006 (the 2006 Act) for consent to carry out restricted works on common land.
 - The application is made by Hampshire Countryside Services.
 - The works comprise:
 - (i) two lengths of fencing/gates totalling 23 m x 1.5 m to form safe areas (each covering approx. 30 m²) inside the existing bridle gates onto the A354;
 - (ii) a corral for cattle covering 80 m² and an associated 70m stretch of fencing; and
 - (iii) reinstatement of a pond and a 100m fence to protect it covering 886 m².
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Decision

1. Consent is granted for the works in accordance with the application dated 28 January 2019 and accompanying plan, subject to the following conditions:
 - (i) the works shall begin no later than three years from the date of this decision;
 - (ii) the fencing around the pond shall be removed after 10 years from the date it is erected; and
 - (iii) the access gates shall comply with BS 5709 Gaps, Gates and Stiles (2018).
2. For the purposes of identification only the location of the works are shown in red on the attached plan.

Preliminary Matters

3. I have had regard to Defra's Common Land Consents Policy¹ in determining this application under section 38, which has been published for the guidance of both the Planning Inspectorate and applicants. However, every application will be considered on its merits and a determination will depart from the policy if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the policy.
4. This application has been determined solely on the basis of written evidence.
5. I have taken account of the representations made by the Open Spaces Society (OSS) and Natural England (NE).
6. I am required by section 39 of the Commons Act 2006 to have regard to the following in determining this application:-

¹Common Land Consents Policy (Defra November 2015)

- 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;² and
- d. any other matter considered to be relevant.

Reasons

The interests of those occupying or having rights over the land

7. The common is jointly owned by Hampshire County Council and Hampshire and Isle of Wight Wildlife Trust. The Council is the applicant and the Trust has been consulted about the application and has not objected. The applicant confirms that rights of sheep grazing are exercised over the common. The commoners have been consulted and have not objected to the works.
8. Those exercising rights of grazing are likely to benefit from the works facilitating improvements to the management of cattle on the common. I conclude that the works are in the interests of those occupying or having rights over the land.

The interests of the neighbourhood and the protection of public rights of access

9. The interests of the neighbourhood test relates to whether the works will unacceptably interfere with the way the common land is used by local people. The applicant explains that existing bridle gates do not provide sufficient security and if not closed properly or fail may result in cattle straying onto the nearby road (A354) and cause accidents. The two lengths of fencing around the bridle gates are needed as an additional safety measure for cattle grazing on the common and for horse riders entering or exiting the common. A cattle handling facility/corral will be provided on the common to manage cattle (e.g. for TB testing) and improve animal welfare. An existing pond will be reinstated and fenced to protect it from cattle and reduce risks to the public. Material taken from the pond site will be used to fill ruts along the tracks on the common and improve access.
10. The OSS does not object to the application. NE advise that gates should comply with BS 5709 Gaps, Gates and Stiles (2018) to meet the needs of horse riders and the less mobile. The applicant confirms that the gates will be 2-way and non self-closing and set back from the road by at least 4 m.
11. The cattle handling facility will occupy a relatively small area of common and neither it nor the fencing around the bridle gates will unacceptably impact on access. The pond is clearly out of bounds and fencing it will not affect access. I am satisfied that the works will not interfere with the way the common is currently used by local people. I conclude that the works will not harm the interests of the neighbourhood or unacceptably impact on public rights of access.

Nature conservation and conservation of the landscape

12. The common is located in the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty (AONB) and is part of the Martin Down and Tidpit Site of Special Scientific Interest (SSSI). The works comprise post and rail fencing and metal

²Section 39(2) of the 2006 Act provides that the public interest includes the public interest in; nature conservation; the conservation of the landscape; the protection of public rights of access to any area of land; and the protection of archaeological remains and features of historic interest.

gates. Fencing leading to the corral and around the pond will include a strand of barbed wire.

13. NE comments that the down forms an extensive tract of chalk downland, chalk heath and scrub and that small ponds are a traditional feature of the landscape. The common has been assessed as being in unfavourable recovering condition and would benefit from a period of cattle grazing to remove the courser vegetation that sheep ignore. The restoration of the pond may increase the public's enjoyment of the site through attracting more wildlife such as the turtle dove which NE says is on the brink of extinction in the UK.
14. In view of NE's comments, I am satisfied that the works, by facilitating grazing and the restoration of the pond, will benefit nature conservation and the landscape. I conclude that the proposed works will help improve the condition of the SSSI and enhance the natural beauty of the AONB.

Archaeological remains and features of historic interest

15. The works are close to the route of a Scheduled Ancient Monument (SAM 24328), the Roman Road. There is no indication that the works will impact on the SAM and I am satisfied that the works will not harm any archaeological remains and features of historic interest.

Other matters

16. NE advise that the fence around the pond should be removed should cattle cease to graze the common. The applicant in response agrees to remove the fence once cattle no longer graze the common and adds that this is likely to be a period of at least 10 years but it is possible that cattle grazing will become a permanent part of the management plan. I consider that a condition time limiting the fencing around the pond is appropriate to ensure that the fence is removed after 10 years if no longer needed. A further application to retain the fencing can be made should it be required after this time.

Conclusion

17. I conclude that the works will not harm archaeological remains and features of historic interest or the way in which the public use the common and will benefit the other interests set out in paragraph 6. Consent is granted for the works subject to the conditions set out in paragraph 1.

Richard Holland

