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| **Application Decision** |
| Site visit made on 29 June 2021 |
| **by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 16 August 2021** |

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| **Application Ref: COM/3263103****The Old School Playing Fields (locally known as the Burn Field), Willia Road, Haltwhistle, Northumberland NE49 9EH**Register Unit No: VG77Commons Registration Authority: Northumberland County Council |
| * The application, dated 12 November 2020, 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 Alan Sharp (Chair) of Haltwhistle Swimming and Leisure Centre.
* The works comprise the erection of a fixed 220m long x 1.2m high safety fence on three sides of the football pitch at the Old School Playing Fields (Burn Field).
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Decision

1. Consent is granted for the proposed works in accordance with the application dated 12 November 2020 and the plans submitted with it, subject to the condition that the works shall begin no later than 3 years from the date of this decision.

**Preliminary Matters**

1. I have had regard to Defra’s Common Land Consents Policy (November 2015) 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.
2. This application has been determined solely on the basis of written evidence and an unaccompanied site visit.
3. I have taken account of the representations made by a local resident, Natural England, Historic England and the objection received from the Open Spaces Society (OSS).
4. It has not been possible to obtain a copy of the register due to circumstances affected by the pandemic. I have therefore referred to the correspondence[[1]](#footnote-1) received from Northumberland County Council (NCC) in the determination of my decision.
5. For the purposes of identification only the location of the works are shown outlined in pink within the site edged red on the attached plan.

**Main Issues**

1. I am required by Section 39 of the 2006 Act to have regard to the following in determining this application:-

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]](#footnote-2); and,

d. any other matter considered to be relevant.

Reasons

***The interests of those occupying or having rights over the land***

1. The Village Green (VG) is owned by Haltwhistle Town Council (HTC) and the applicant is the Managing Trustee for the VG. There are no registered rights recorded over the land. The applicant confirms that there are rights of access to the general public and I am satisfied that the works will not harm the interests of those occupying or having rights over the land.

***The interests of the neighbourhood***

1. The interests of the neighbourhood test relate to whether the works will impact on the way the VG is used by local people. In general terms works should only be permitted if they maintain or improve the condition of the VG or where they confer some wider public benefit and are either temporary in duration or have no significant or lasting impact.
2. The VG extends to some 1.75ha in area, with the site comprising the southern section, amounting to approximately one third of the VG. This area comprises of a relatively flat mowed grassed area, which is marked out as a football pitch with goal posts at each end. The remaining two thirds of the VG consists of a vehicular access and part of a parking area, adjacent to the club house for a local football team[[3]](#footnote-3). However, the majority of the remaining VG is in the form of a natural wooded area/meadow, with Haltwhistle Burn running through it.
3. The applicant has confirmed that football has been played on this section of the VG for a notable period of time and is available for a number of local football teams to utilise, not just one team, which includes HJFC. Whilst noting the objection to the works from the OSS, I acknowledge that the applicant, the HTC and the Village Green Working Group have all worked closely together on the submission of this application, adhering to the existing terms and the number of football matches currently allowed on the site. Therefore, I am satisfied that the proposed development will not harm people’s enjoyment of the VG.

***The public interest***

*Nature Conservation*

1. There is no evidence before me to indicate that the proposed works will harm nature conservation interests.

*Landscape*

1. The land is not in a National Park, Area of Outstanding Natural Beauty or covered by any formal landscape designation. Nonetheless, the area subject of this application positively contributes to the wider visual amenities of the VG.
2. The applicant has proposed no measures to disguise or hide the fence and in the absence of such measures I conclude that it will cause some harm to the landscape. However, the height of the safety fencing around the pitch would be kept to a minimum, and it would only be sited around 3no. sides of the pitch. Additionally, I find that the erection of the safety fencing as proposed is not an uncommon feature on land that is used in connection with sporting activities, either solely or in conjunction with other uses, as in the case before me. Overall, I am satisfied that the works would not have a significant impact on the conservation of the landscape.

*Public access*

1. As the proposed safety fencing would not be erected around the full perimeter of the pitch, with only 3no. sides being enclosed, I find that the wider VG could still be easily accessed. Additionally, double gates would be positioned within the western and northern sections of the proposed development. Furthermore 2no. gaps would be maintained on the northern section of the safety fencing, where 2no. portable dugouts would be located either side of a pedestrian gate.
2. There is no indication that the proposed gates would be locked or that the portable dugouts would be installed at times outside of a match day. Therefore, the permeability of the site would remain to allow sufficient access to other areas of the VG when the pitch is not in use. Access to the existing footpath to the west of the site would also remain unaffected once the safety fence is erected. Overall, I am satisfied that the proposed safety fence would not harm public access to the site or the wider areas of the VG. Accordingly, the proposed works would have no adverse effect on public access.

*Archaeological Remains and Features of Historic Interest*

1. There is no evidence to suggest that the proposed works would have an adverse effect on any archaeological remains or features of historic interest.

***Other Matters***

1. An interested party has raised concerns about the sustainability credentials of the safety fence, including its materials and whether it can be recycled. A lack of electric vehicle charging points (EVCPs) has also been cited as a concern. The applicant has confirmed that the safety fence would be constructed out of 80% of recycled materials and that EVCPs would be a future consideration. However, such matters would have little bearing on my decision, which I have determined on its own particular merits for the reasons set out above.

**Conclusion**

1. The safety fencing would enhance the enjoyment of those using the VG to play football, allowing a higher standard of participation to be achieved, whilst not harming the interests of persons having rights in relation to, or occupying the land, the interests of the neighbourhood or the wider public. Accordingly, the application should therefore be granted.

W Johnson

INSPECTOR



1. Email from the Democratic Services Officer at NCC dated 10 December 2020 [↑](#footnote-ref-1)
2. Section 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. [↑](#footnote-ref-2)
3. Haltwhistle Jubilee FC (HJFC) [↑](#footnote-ref-3)