
Application Decision

by **Richard Holland**

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

Decision date: 3 July 2015

Application Ref: COM 696 Blawith Common, Cumbria

Register Unit No: CL155

Commons Registration Authority: Cumbria

- The application, dated 10 April 2015, 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 Chris Ashton of Ashton Planning on behalf of Woodland Property Services, Crake Valley Holiday Park, Blawith Water, Yeat, Ulverston, Cumbria LA12 8DL.
- The works comprise: 10 camping pods or wooden cabins on post-mounted bases.

Decision

1. Consent is refused.

Preliminary Matters

2. I have had regard to Defra's Common Land Consents Policy Guidance¹ 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 guidance if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the guidance.
3. This application has been determined solely on the basis of written evidence.
4. I have taken account of the representations made by the Lake District National Park Authority, Blawith and Subberthwaite Parish Council, the Blawith and Subberthwaite Commoners Association, Natural England, Friends of the Lake District, the Open Spaces Society and Mr Stalker, one of the commoners.
5. 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;

¹ Common Land Consents Policy Guidance (Defra July 2009)

- 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

6. The land is owned by Mr David Khan of Woodland Property Services who is also the applicant. The commons register lists grazing rights for sheep, cattle and horses. The common is grazed with sheep. One of the graziers objects to the application on the basis that the cabins will prevent grazing and scare the sheep from a wider area. The commoner's association likewise objects. The applicant responded that the sheep can continue to graze the areas around the cabins.
7. I consider it likely that sheep will be deterred from grazing, at least to some degree, by the activity of holiday makers using the cabins. The proposals will serve the land owner's interests, which are presumably commercial gain in part at least, but are against the interests of those having grazing rights over the land. Whilst I take account of the interests of the applicant as landowner, I give more weight to the interests of the graziers because their interests will be materially harmed were the proposed works to go ahead as the amount of land available for grazing will effectively be reduced.

The interests of the neighbourhood and public rights of access

8. The applicant states that the application area is currently used for camping and is not a likely location for public recreation such as walking or picnics. However, the public has the right to access and enjoy the whole of the common unhindered but will of course be unable to do so for those parts of the common occupied by the cabins. Furthermore, I consider that the presence of the cabins may lead those wishing to access the area to think that it is for the use of holidaymakers only and thus out of bounds to walkers. I consider that this will deter those wishing to use the area for recreation. The applicant argues that the cabins will facilitate recreational use of the common. Defra's policy guidance makes clear that consent will not normally be granted for permanent buildings on common land because such development is normally incompatible with the use of the land as common land. However, where such buildings are intrinsically related to the enjoyment or management of the common, such as a cricket pavilion, lambing shed or a keeper's hut, consent may be appropriate. However, the application buildings are not intrinsically related to the enjoyment or management of the common and will interfere with the public's enjoyment of it and be against the interests of the neighbourhood and the public interest in the protection of public rights of access.

Nature conservation

9. There is a Site of Special Scientific Interest (SSSI) and a Special Conservation Area (SCA) nearby the application site but they will not be directly affected by the proposed cabins. Natural England considers that there will be no direct detrimental effect on features of conservation value. The Lake District National Park Authority is concerned about the effect the proposals might have on the nearby SSSI but does not comment further. I consider that, as there is no

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.

strong evidence that the cabins will harm the SSSI or SCA, the proposals will have a little or no impact on nature conservation interests; the wildlife of the National Park will therefore be conserved.

Conservation of the landscape

10. The proposals are in the Lake District National Park. Both the Lake District National Park Authority and Friends of the Lake District object to the proposals because of the impact on the landscape. The applicant states in response that the cabins will be made of natural materials and enclosed by trees and will affect only a small area of the common. However, while I accept that the use of natural materials will somewhat soften their visual impact, I nevertheless consider that, because of their size, design and massing, the introduction of the cabins will have an urbanising effect which will be out of keeping with their rural setting and unacceptably harm the landscape and natural beauty of the Lake District National Park.

Archaeological remains and features of historic interest

11. There is no evidence before me of archaeological features within the application site or nearby and I am satisfied that the proposed works will not harm any archaeological remains or features of historic interest; the cultural heritage of the National Park will therefore be conserved.

Other matters

12. Some of the objectors are concerned about other works carried out by the applicant as well as a telecom mast installed near the holiday park. However, these works are not part of the application and are not for me to comment on or take into account. The Friends of the Lake District is concerned that granting consent for the application will set a precedent for allowing further harmful works. However, application decisions do not set a precedent and each must be decided on its individual merits.

Conclusion

13. Having regard to the interests set out in paragraph 5 above, I conclude that the cabins will unacceptably harm the interests of the graziers and the natural beauty of the National Park and hinder the public's access over, and its enjoyment of, the common. Consent therefore should be refused.

Richard Holland