



Application Decision

by Richard Holland

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

Decision date: 5 October 2015

Application Ref: COM 714 East Park, Southampton

Register Unit No: CL3

Commons Registration Authority: Southampton City Council

- The application, dated 11 June 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 Southampton City Council ('the Council').
- The works are to relocate the existing entrance at Park Walk to approximately 7m south of its current position. The works comprise:
 - i. take up 144.3 square metres of paths and paving; cultivate, consolidate and turf most of this to create turf paths and also to create new shrub beds;
 - ii. remove some internal Pyracantha hedging; and
 - iii. lay 146.5 square metres of tarmac path with engineering brick edging.

Decision

1. Consent is granted for the works in accordance with the application dated 11 June 2015 and the plans submitted with it subject to the condition that they shall begin no later than three years from the date of this decision.
2. For the purposes of identification only the location of the works is shown in red on the attached plan.

Preliminary Matters

3. 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.
4. This application has been determined solely on the basis of written evidence.

¹ Common Land Consents Policy Guidance (Defra July 2009)

5. I have taken account of the representations made by Hampshire Gardens Trust, Southampton Commons and Parks Protection Society (SCAPPS) and the Open Spaces Society.
6. 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 and
 - d. any other matter considered to be relevant.

Reasons

The interests of those occupying or having rights over the land

7. The applicant, Southampton City Council, is the landowner responsible for the maintenance of East Park and the wider common land unit CL3. There is one right of common over CL3 in favour of Hampshire County Council to dig marl over part of the land comprised in this register unit. The County Council has confirmed that whilst this right is still exercisable, it is not its intention to exercise it. I therefore consider that the proposed works will not harm the interests of those with rights over the land.

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

8. The nearby Southampton New Arts Complex development project will open up views from the park across Park Walk (the highway to the west of the park) towards the historic Guildhall Square. The entrance to the park is slightly out of alignment with the direct sight line to the Square and the purpose of the proposal is to correct this.
9. Both the Hampshire Gardens Trust and SCAPPS fully support the principle of re-alignment as a long standing aspiration but contend that the proposals set out in the application represent a piecemeal approach and a missed opportunity to secure the success of this key entrance to the historic park as a long term feature. The Council explains that it has a shorter term commitment to completing the realignment within budgetary constraints, hence the framing of the proposals applied for. However, I am deciding this application on its individual merits and any consent given to the proposals should not fetter the Council's ability to make future applications to further improve the area around the entrance.
10. I consider that the works as proposed are in the interests of the neighbourhood as they will improve views from the park to an historic local feature; this will enhance local people's enjoyment of the park. The nature and purpose of the proposed works will have little or no material effect on public rights of access over the common land.

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.

Nature conservation

11. The proposed works area lies adjacent to an existing hard surfaced entrance to a busy public park in the centre of Southampton. It is primarily an area for public recreation and there is no evidence before me to suggest that the proposed works will harm important nature conservation interests.

Conservation of the landscape

12. I note that there will be new ornamental planting across the existing entrance of similar design as the existing planting either side of it to give the impression that the new entrance has always been there. The new paths will be of the same design, construction and materials as the existing. I am satisfied that the measures proposed to soften the impact of moving the entrance will avoid an unacceptably adverse effect on the landscape. The net loss of 2.2m² of soft landscaping is insignificant in this respect.

Archaeological remains and features of historic interest

13. East Park is an Historic England Grade 2 registered park. The Council has advised that Historic England was consulted and raised no objection to the proposed works. There is no evidence before me of any archaeological features within the application site or nearby. I am satisfied that the proposed works will not harm any archaeological remains or features of historic interest.

Conclusion

14. Having regard to the interests set out in paragraph 6 above, I conclude that the works will benefit the interests of the neighbourhood without seriously harming the other interests and that consent should therefore be granted subject to the conditions in paragraph 1 above.

Richard Holland