
Application Decision

by **Richard Holland**

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

Decision date: 5 January 2016

Application Ref: COM 743

Askrigg Common, North Yorkshire

Register Unit No: CL32

Commons Registration Authority: North Yorkshire County Council

- The application, dated 6 October 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 Rural Solutions, on behalf of Gunnerside Estate Ltd.
 - The works comprise the construction of a timber hut, which will provide daytime shelter and lunch facilities for beaters and shoot day employees. The hut will measure 12.12 metres long x 3 metres wide x 2.08 metres high to eaves/2.54 metres to the ridge.
 - The works will be located at Stackhill House enclosure off Cross Top Lane, Askrigg Common, Askrigg, North Yorkshire.
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Decision

1. Consent is granted for the works in accordance with the application dated 6 October 2015 and the plan submitted with it subject to the condition that the works 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 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 Natural England 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;

¹ Common Land Consents Policy (Defra November 2015)

- 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 landowner (Askrigg and Low Abbotside Parish Council), the Commoner's Association and common rights holders have been consulted about the proposed works and have not objected. There is no evidence before me therefore that the works will harm the interests of persons occupying or having rights over the land. Indeed, as the works are required to allow Gunnerside Estate (the Estate) to more fully exercise its sporting rights they will benefit this rights holder.

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

- 8. The applicant has commented that the shoot has a duty of care to its staff, and health and safety requirements are such that they should have proper facilities and a place of respite for lunch etc. At present there are no such adequate facilities; the proposed shoot hut would provide shelter and lunch facilities for beaters and shoot day employees. The applicant also says that the proposed work will be in the public interest through the economic and social benefits associated with the shooting activities run by the Estate; the Estate employs over 50 casual day staff associated with the shoot over 80 shooting days per year, making them the largest single employer in Upper Swaledale, contributing £200k directly into the local economy through wages plus additional local spend on accommodation.
- 9. The Open Spaces Society has said that although it does not think the timber hut is positively in the public interest, it is small and will not intrude on the landscape nor restrict public access. It therefore has no objection to the application.
- 10. Although the new hut will have a footprint almost three times larger than the two small timber buildings it will replace, it will be relatively small in relation to the area of the common as a whole. Furthermore, there is no evidence before me that the works will interfere with the way local people use the common for recreation and access. Indeed, I consider that the works will help to facilitate the continued use of the common for recreational purposes which will benefit the local economy.

Nature conservation, conservation of the landscape and archaeological remains and features of historic interest

- 11. Askrigg Common lies within the Lovely Seat Stainton Moor Site of Special Scientific Interest, the North Pennine Moors Special Area of Conservation, North Pennine Moors Special Protection Area and the Yorkshire Dales National Park. The applicant has advised that the ecological benefits that arise from the land management activities associated with maintaining upland moorland for grouse shooting are widely acknowledged and presumably it feels that the proposed hut, in facilitating the shooting activities, will help to prolong these benefits. Natural England feels that there is no public benefit to the proposal neither does there seem to be any public detriment; it has not commented on the impact of the hut on nature conservation interests and has not objected to the application. In the absence of any evidence to the contrary I am satisfied therefore that the works will not harm any statutorily protected sites or other nature conservation interests.

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.

12. The Yorkshire Dales National Park Authority has been consulted about the proposed works and has not objected and I note that it has granted planning permission for the proposal (Decision No: R/50/185).
13. The proposed hut will be sited adjacent to an existing stone hut and will replace two small timber buildings currently used by staff, thus consolidating the staff accommodation into a single building. The applicant has advised that the appearance of the proposed building has been determined following discussions with the Yorkshire Dales National Park Authority in order to minimise its visual appearance. It will be stained in a dark colour and windows have been omitted from the long, south facing elevation. Landscaping by way of tree planting to the north and east of the new building formed part of the approved planning application. These measures will screen the building from any long distance and/or skyline views and help it blend more easily into the landscape. In view of the above, I am satisfied that the new hut will not have a significant visual impact on the landscape of the common.
14. There is no evidence before me of archaeological features within the application site or nearby and I am content, therefore, that the works are unlikely to harm any such remains or features.
15. The proposed hut will therefore conserve the wildlife, natural beauty and cultural heritage of the National Park.

Conclusion

16. Defra's Common Land Consents Policy says that "consent will not normally be granted under section 38 for permanent buildings on common land, because such development is normally incompatible with the future 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 under section 38 may be considered appropriate".
17. I am satisfied that the application works accord with this policy objective because they will not materially harm the interests outlined in paragraph 6 above, are linked to the traditional management and enjoyment of the common, and will confer a wider benefit by facilitating shooting activities which will generate economic and social benefits. I conclude therefore that consent should be granted subject to the condition set out in paragraph 1.

Richard Holland