The Planning Inspectorate

Application Decision

by Richard Holland

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

Decision date: 17 May 2016

Application Ref: COM 768
HORSEHEAD MOOR, EASTSIDE AND HAGG WITH RAISGILL WOOD, NORTH YORKSHIRE
Register Unit No: CL 515
Commons Registration Authority: North Yorkshire County Council

- The application, dated 8 January 2016, under Section 38 of the Commons Act 2006 for consent to carry out restricted works on common land.
- The application is made by the National Trust.
- The works comprise: (1) temporary post and wire fencing with sheep netting on seven areas of the common (total area of 44.7 ha) to allow for tree and shrub planting (2) temporary fencing of one area of 6.4 ha of the common to allow for peatland restoration. The total length of fencing is 8,780 m. The fences will be taken down and removed from the common within 10 to 20 years.

Decision

1. Consent is granted for the works in accordance with the application dated 8 January 2016 and the plan submitted with it, subject to the following conditions:-

   i. the works shall begin no later than three years from the date of this decision;

   ii. all gates and stiles shall meet British Standard 5709;

   iii. a grouse marker shall be attached to the fencing between each upright post; and

   iv. all fencing shall be removed no later than 20 years from the date it is erected;

2. For the purposes of identification only, the location of the works is shown as a red line, and gates and stiles are shown respectively as yellow circles and blue triangles, on the attached plan.

Preliminary Matters

3. I have had regard to Defra's Common Land Consents Policy Guidance[1] 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 2015)

5. I have taken account of the representations made by Historic England (HE), The Open Spaces Society (OSS), Natural England (NE), The British Horse Society (BHS), the Conservation Support Officer at Yorkshire Dales National Park Authority (YDNPA), the Countryside Archaeological Adviser at YDNPA and Mr CE Inman.

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. Horsehead Moor, Eastside and Hagg with Raisgill Wood common has no known owner and falls under the protection of Buckden Parish Council; the Council has not objected to the application. The applicant confirms that it holds the rights listed over the commons and grazing rights are exercised by tenant farmers. The proposals are intended to support the sustainability of the tenant farm businesses. Rights listed on the register for turbary, sporting and minerals are not currently exercised. I conclude that the interests of those occupying the land are not at issue and the proposed works will benefit the interests of the rights holders.

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

8. The interests of the neighbourhood test relates to whether the works will unacceptably interfere with the way the common is used by local people. The proposed works are required to facilitate the management of stock grazing or the exclusion of stock in the enclosed areas with the aim of encouraging the establishment and protection of trees and scrub in the enclosed areas. The long term aim being the recovery of heath and blanket bog habitat on the common. Consent is sought for 20 years, with a review after 10 years.

9. A number of gates and stiles, to British Standard 5709, are included in the enclosures to facilitate public access. The OSS has asked that all gates and stiles are to British Standard 5709 and compliance can be secured through a condition on any consent. The project has been developed with the support of farmers, the local community and volunteers. There may be some benefit to local people and the public's enjoyment of the common in the long term by enhancing the visual appeal, access and experience of the common to visitors. I conclude that the proposed works will not harm the interests of the neighbourhood or unduly interfere with public rights of access.

[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.

Nature Conservation

10. The project is designed to enhance biodiversity and the functioning of the 'ecosystem'. The common lies within the Yorkshire Dales National Park. The YDNPA supports the scheme and agrees that it will increase biodiversity. It recommends that as the application areas fall within the core black grouse areas, grouse marker plates are used; again, compliance can be secured through a condition. NE also agrees that the scheme will allow for the regeneration of areas of peatland habitat as well as upland woodland. This will enhance biodiversity in particular grouse and red squirrel, both of which require a woodland habitat. I conclude that the proposed works are likely to benefit nature conservation interests of the National Park in the long term.

Conservation of the landscape

11. The proposed works are located so as to link, where possible, to existing fences or walls on the common and conform to the local style. The fence line will follow land forms where possible to minimise the visual impact. NE comments that although the fencing will have some impact, the works will also help restore the appearance of the landscape, whilst contributing to biodiversity and climate change mitigation. I accept that the fencing is needed to protect trees and shrubs from damage by grazing animals. Once the trees and shrub are established and the peatland has recovered, the fencing, gates and stiles will be removed from the fell. I conclude that the proposed works, by helping to establish native woodland and scrub, will help conserve and potentially enhance the moorland landscape and the natural beauty of the National Park.

Archaeological remains and features of historic interest

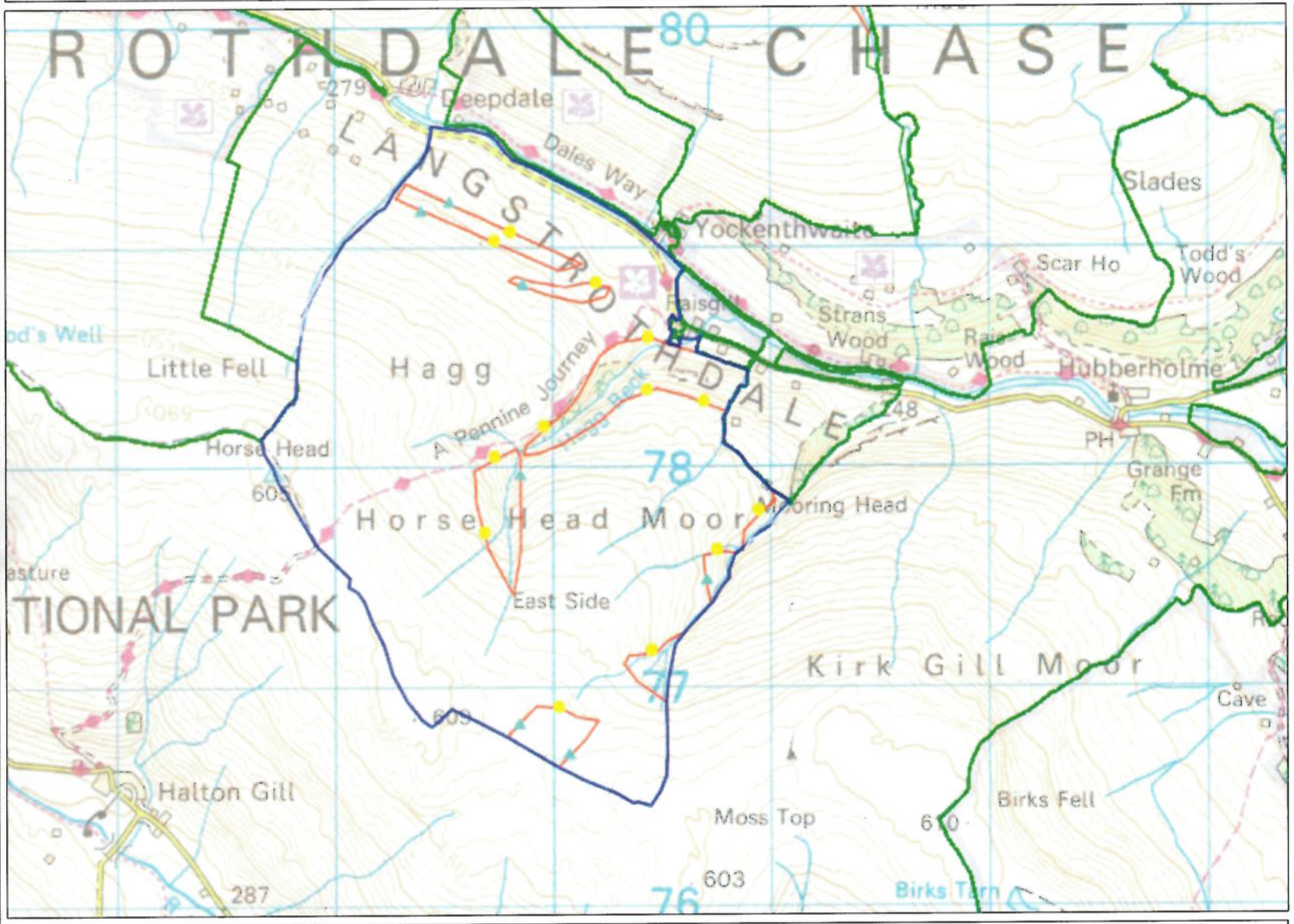
12. HE confirms that the application areas do not include any designated heritage assets. YDNPA's archaeologist confirms his support for the proposal but recommends that the applicant takes certain steps to avoid harm to historic remains, particularly regarding the extensive earthworks to the north of Hagg and Langstroth Pot and at Rasgill. These steps include a rapid archaeological survey undertaken before the works begin to accurately locate any historic features that might be negatively impacted by either the change in management, machine access or fencing works. Areas of bare peat should also be inspected for evidence of findspots and ecofacts before any fencing or restoration takes place. As the applicant has agreed to these measures I am satisfied that the proposed works will not harm archaeological remains and features of historic interest and that the cultural heritage of the National Park will be conserved.

Conclusion

13. I consider that the proposed works will not materially harm any of the interests set out in paragraph 6 above; indeed, they are likely to benefit nature conservation and conservation of the landscape interests in the long term. I conclude therefore that consent should be granted for the works subject to the conditions set out in paragraph 1.

Richard Holland

Horsehead Common CL515: Map2: Key: yellow circle=gate; blue triangle=stile



Legend

- ▲ Definitive Properties (GB)
- NT Ownership (GB)
- NT Leasehold (GB)

1: 25,000

1.3 0 0.64 1.3 Kilometers

British_National_Grid

This map is a user generated static output from an Intranet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

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Notes

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