



Application Decision

by Richard Holland

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

Decision date: 5 January 2017

Application Ref: COM/3162136

Kynance Downs, The Lizard, Cornwall

Register Unit No: CL 210

Commons Registration Authority: Cornwall Council

The application, dated 20 October 2016, is made under Section 23 of the National Trust Act 1971 (the 1971 Act) for consent to carry out restricted works on common land.

The application is made by the National Trust for places of Historic Interest or Natural Beauty (NT).

The works are proposed for the Kynance Cove car park and comprise:

- removal of the existing toilet building and two wooden car park huts;
 - erection of a single 9.1 metres long combined visitor reception/toilet building covering 36 square metres with landscaped area to the front for pedestrian use;
 - installation of a new pipe for foul drainage from new building to existing cess pit; and
 - creation of a new car park exit route.
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Decision

1. Consent is granted for the works in accordance with the application dated 20 October 2016 and accompanying plan, subject to the condition that the works shall begin no later than 3 years from the date of this decision.
2. For the purposes of identification only the location of the works is within the area bordered 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 23, 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. The application proposes similar, but lesser, works than works for which consent was granted on 16 April 2014 (application reference COM 564).
5. The landscaped area for pedestrian use, new foul pipe and new car park exit route are proposed in the application form but are not included in the published

¹ Common Land Consents Policy (Defra November 2015)

application notice. I consider that the proposed foul drain is part and parcel of the proposed new toilet facilities. I note that the new car park exit will provide egress to an existing track and involves only the removal of part of an existing hedge, which does not in itself require consent under section 23 of the 1971 Act. The landscaping element is a relatively small part of the proposal as a whole. I am therefore satisfied that these omissions from the notice are not significant enough to have prejudiced any persons wishing to make representations about the application.

6. This application has been determined solely on the basis of written evidence.
7. I have taken account of the representations made by the Open Spaces Society (OSS) and Historic England (HE), neither of which object to the application.
8. I am required by section 39 of the Commons Act 2006 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

9. NT, as landowner, consents to the proposed works. It considers that the works are desirable for the purpose of improving opportunities for the enjoyment of the property by the public and considers that the works are in the interests of visitors to the common. There are no rights of common registered over the land to be affected by the proposals.
10. The application site serves a wider purpose than just that of a car park. It is supervised by NT staff who, according to NT, play a vital role in the day-to-day management and conservation of the site; welcoming visitors, providing site information and recruiting NT members. NT believes that the proposed new building will enable staff to better support the Trust's management of Kynance Cove and I consider that the proposals will positively benefit NT as owner and manager of the land.

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

11. 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 to improve the facilities at the existing car park, which serves those wishing to walk the adjoining path to Kynance Cove and to access the wider common on foot. The proposed new building will be 'fit for purpose' and provide better quality facilities including toilets that will be Disability Discrimination Act compliant. The creation of a separate exit route from the car park will remove the

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.

need for a shared entrance and exit point, which will assist traffic flow and therefore be of benefit to car park users. Although the works seem mainly intended to enhance visitor experience of the cove, I consider that the works will also benefit the neighbourhood by providing a modern amenity with up-to-date facilities that will help to encourage better use of the common and enhance local people's enjoyment of it.

Nature conservation

12. Natural England (NE) has granted separate consent for the removal of 4 metres of Cornish hedge to facilitate the new exit route from the car park. NE was also consulted about this application but has not commented. I consider it reasonable to conclude that NE does not object to the proposals and I am satisfied that there is no evidence before me to indicate that the proposed works will harm nature conservation interests.

Conservation of the landscape

13. The proposals represent the latest stage in a series of landscape improvements at Kynance, which began in the 1980s. The proposed building will be a single storey chestnut timber clad structure with a Cornish slate roof and its design and location will fit sympathetically within the coastal landscape. The landscape will also benefit from the removal of the existing toilet block building and huts and the reinstatement of the land on which they sit.
14. The site lies within the Cornwall Area of Outstanding Natural Beauty (AONB). The new building will be less visually intrusive than the existing buildings and I am satisfied that the works will conserve the natural beauty of the AONB.

Archaeological remains and features of historic interest

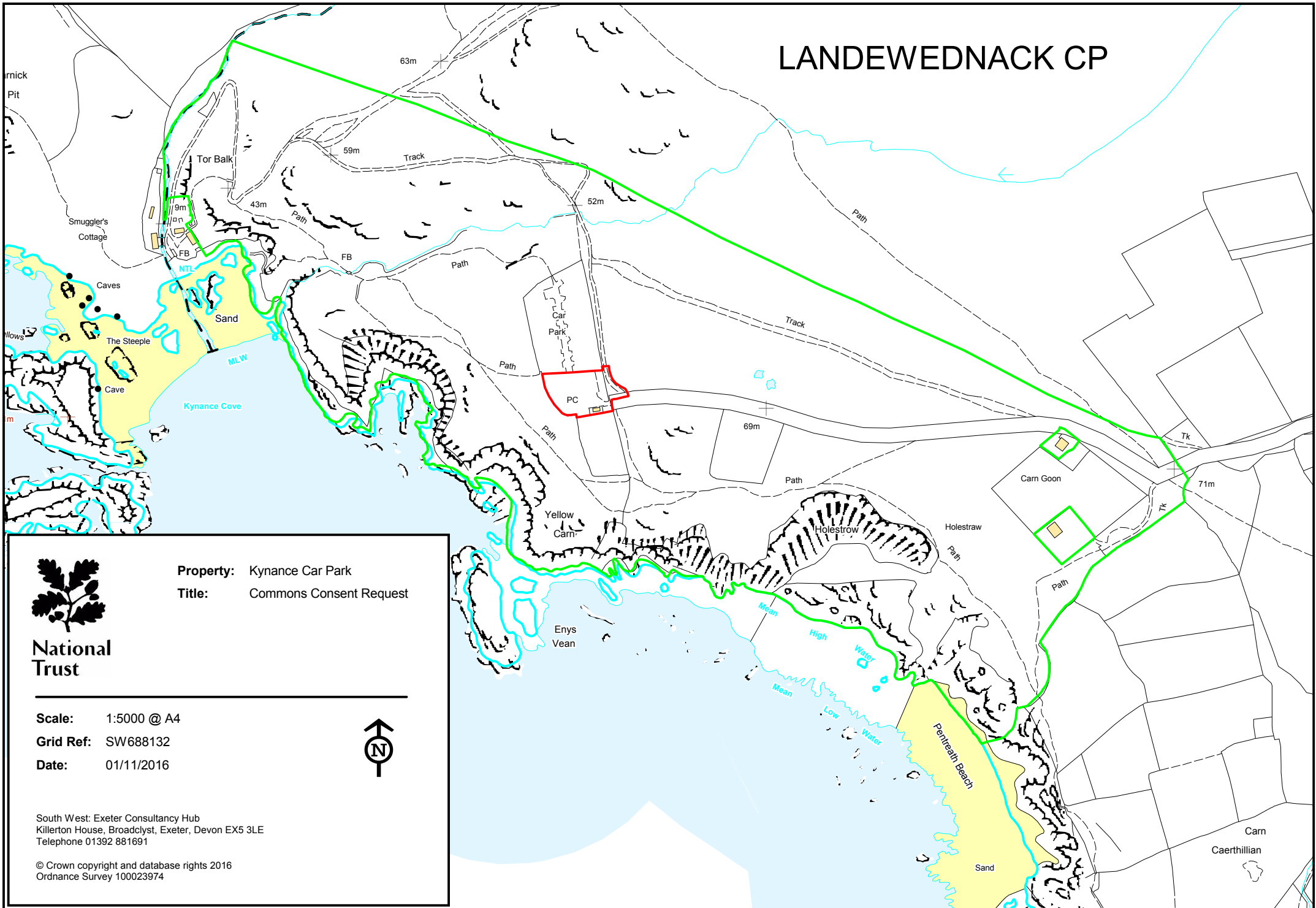
15. HE advised that the proposals do not affect any heritage assets within its statutory remit and that it has no comments to make. There is no evidence before me to indicate that the proposed works will harm any archaeological remains or features of historic interest.

Conclusion

16. I conclude that the proposed works will not harm the interests set out in paragraph 8 above; indeed, they will enhance visitors' enjoyment of the common and be visually more acceptable than the current buildings. I therefore conclude that consent should be granted for the works subject to the conditions set out in paragraph 1.

Richard Holland

LANDEWEDNACK CP



National Trust

Property: Kynance Car Park
Title: Commons Consent Request

Scale: 1:5000 @ A4

Grid Ref: SW688132

Date: 01/11/2016



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