
Application Decision

by **Richard Holland**

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

Decision date: 17 January 2017

Application Ref: COM/3164688

Boxmoor and Dew Green Commons, Hertfordshire

Register Unit No: CL 24

Commons Registration Authority: Hertfordshire County Council

- The application, dated 4 December 2016, 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 the Box Moor Trust.
 - The works comprise the renovation and creation of ephemeral scrapes/ponds as part of the River Bulbourne restoration project.
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Decision

1. Consent is granted for the works in accordance with the application dated 4 December 2016 and the plans 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 outlined in red and hatched blue 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 representation made by the Open Spaces Society (OSS).
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

¹ Common Land Consents Policy (Defra November 2015)

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.

d. any other matter considered to be relevant.

Reasons

The interests of those occupying or having rights over the land

7. The applicant is also the landowner. The applicant confirms that there are two rights of common for grazing registered over the common which are not exercised. I am satisfied that the works will not harm the interests of those occupying or having rights over the land.

The interests of the neighbourhood and the public interest

8. The proposed works form part of a larger project to enhance and restore a 1000 m stretch of the River Bulbourne. The applicant explains that the river contributes significantly to the character of the open space around Boxmoor and is valued by the local community. I note that the Open Spaces Society does not object to the application as it considers the works to be of public benefit.
9. The River Bulbourne is an important natural feature in the landscape which contributes significantly to the character of the common and the wider area. I consider that the restoration works will enhance local people's enjoyment of the common and will not prevent them from using the common in the way that they are used to especially as no fencing or other physical barriers to access are proposed. I conclude that the interests of the neighbourhood and public rights of access are likely to benefit from improvements resulting from the restoration project.
10. The proposed works aim to de-silt and re-profile a section of ditch and small pond and re-profile and enlarge a depression adjacent to the River Bulbourne. The applicant confirms that the River Bulbourne is listed as a priority habitat for restoration under the Natural Environment and Communities Act 2006 and is a key asset to the landscape that has, in the past, been heavily modified to its detriment as it now lacks features characteristic of a chalk stream. I conclude that the proposed works are likely to enhance the common's landscape and nature conservation interests.
11. There is no evidence before to me to indicate that the proposed works will harm any archaeological remains or features of historic interest.

Conclusion

12. I conclude that the proposed works will not harm the interests set out in paragraph 6 above. Indeed, the works should enhance the natural habitat and visual appearance of the common and local people's enjoyment of it. Consent is therefore granted for the works subject to the condition set out in paragraph 1.

Richard Holland

