



Application Decision

by **Richard Holland**

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

Decision date: 4 September 2017

Application Ref: COM/3171779

Cam End Common, Settle, North Yorkshire

Register Unit No: CL 103

Commons Registration Authority: North Yorkshire County Council

- The application, dated 13 March 2017, 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 Ribble Rivers Trust.
 - The works are to erect a total of 4800m of 1.05m high wooden post and wire fencing with stock netting, barbed wire and bird markers to create four separate field gate accessed enclosures of 2.49, 4.07, 2.15 and 5.08 hectares (13.79 hectares in total) for a period of up to eight years.
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Decision

1. Consent is granted for the works in accordance with the application dated 13 March 2017 and the application plan, subject to the following conditions:-
 - i. the works shall begin no later than three years from the date of this decision;
 - ii. all gates shall meet British Standard 5709; and
 - iii. all fencing shall be removed no later than eight years from the date it is erected.
2. For the purposes of identification only the locations of the works are shown as red lines on the attached plan with the field gates marked in blue.

Preliminary Matters

3. The application form refers to there being at least two hurdles/gates to allow public access into each of the four enclosures but the original application plan shows no access points in the fence lines. The applicant subsequently confirmed that access will be by way of field gates (there will be no hurdles) and submitted an amended application plan showing four field gates in the fence line of the largest enclosure and two in the fence lines of each of the other three enclosures. I am satisfied that the submission of an amended application plan has not prejudiced any person wishing to make representations about the application and that the amendment clarifies the proposed public access arrangements.
4. 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.

¹ Common Land consents policy (Defra November 2015)

5. This application has been determined solely on the basis of written evidence.
6. I have taken account of the representations made by Yorkshire Dales National Park Authority (YDNPA), Yorkshire Dales Access Forum (YDAF) and the Open Spaces Society (OSS).
7. 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

8. The common land is owned by the Ingleborough Estate. Five active commoners with grazing rights for a total of around 1200 sheep (and/or a lesser number of cattle) collectively operate as the Cam End Graziers Association through a Higher Level Stewardship agreement with Natural England (NE). The applicant has advised that the works are proposed at the commoners' behest and that the land owner has agreed the necessary access required to carry out the works. The agent representing holders of separate shooting rights was consulted about the application but has not commented. There is no evidence before me to suggest that the proposals will harm the interests of those occupying or having rights over the land.

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

9. The interests of the neighbourhood test relates to whether the works will unacceptably interfere with the way the common land is used by local people and is closely linked with the interests of the protection of public rights of access. The purpose of the proposed fencing is to protect the vegetation within the enclosures from grazing animals. In doing so, the fencing will also impact on public access to the land concerned, although the provision of field gates will ensure that such access is restricted rather than prevented. The fencing is some distance from the Pennine Way and the Dales Way and will not interfere with the use of these public footpaths. I also give weight to YDAF's view that it is minded to support the proposals.
10. The applicant has confirmed that the field gates will be in accordance with BS5709, which can be secured by a condition attached to any consent. Given the provision of such gates, which the application plan shows positioned at opposite ends of the enclosures to facilitate access through them, I consider that the proposed fencing will not significantly harm the interests of the neighbourhood and the protection of public rights of access.

Nature Conservation

11. The works are proposed to further the restoration of degraded peatland by temporarily excluding grazing stock from the areas concerned as part of the Higher Stewardship Scheme agreement. The Scheme also includes a capital works restoration plan including the blocking of drainage ditches (grips), which were introduced some years ago to increase drainage but over time have caused substantial gullying and bare peat. The aims of the peat restoration plan include reducing peat loss from the fell, which will benefit rivers and streams, and protecting upland blanket bog and heath habitats and the species of interest within them. I am satisfied that the peat restoration works are

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.

in the interests of species and habitat conservation and that the proposed fencing will further those interests. I am also satisfied that the inclusion of bird markers will protect bird life on the moors from colliding with the fencing. I consider that the fencing proposals are in the long term interests of nature conservation.

Conservation of the landscape

12. The site lies within the Yorkshire Dales National Park and the proposed fencing will have a detrimental impact on the landscape to a certain extent. However, where possible it will sit below the horizon, as viewed from the main footpaths, thus minimising the visual impact. As temporary consent is sought the fencing will not form a permanent feature in the landscape. I consider that restoration of the land will help conserve the natural beauty of the National Park in the long term and that the fencing is required in the medium term to allow the benefits to be realised. I give weight to YDNPA's support for the proposals and that it raised no concerns about the impact of the fencing on the landscape.

Archaeological remains and features of historic interest

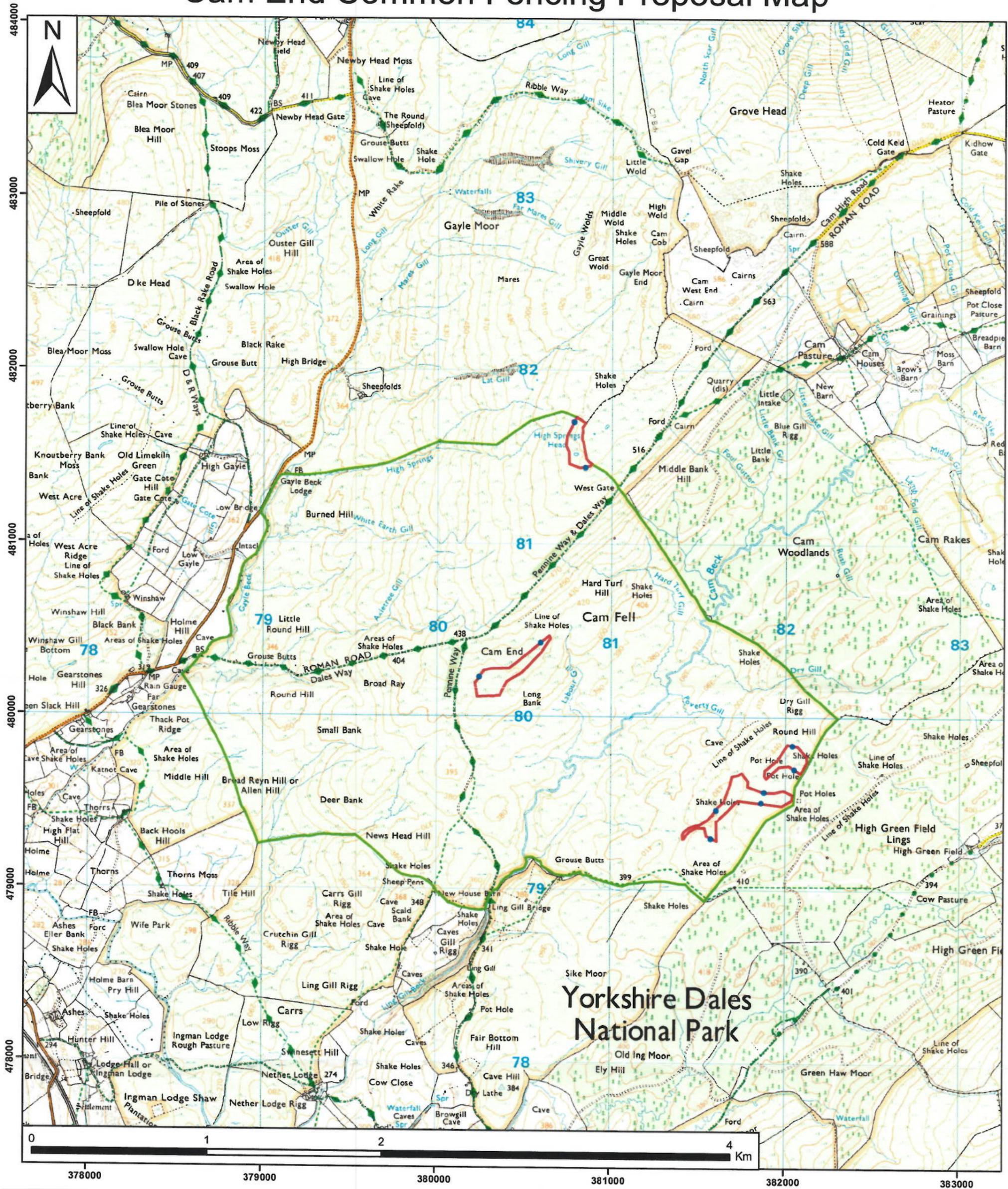
13. YDNPA advised that its senior archaeologist is not aware of any significant detriment to archaeological remains that would be caused by the proposed fencing or subsequent changes in land management. There is no evidence to suggest that the proposed works will harm any archaeological remains or features of historic interest or that the cultural heritage of the National Park will be harmed.

Conclusion

14. I consider that the proposed works will not significantly harm any of the interests set out in paragraph 7 above; indeed, they are likely to benefit nature and landscape conservation 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

Cam End Common Fencing Proposal Map



	Fencing Areas
	Cam End Common Boundary
	Field Gate

Author: A. Walmsley
 Checked By: A. Foley
 Project: Cam End Peat Restoration
 Scale: 1:20,000
 Date: 08/03/2017



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