
Application Decision

by **Richard Holland**

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

Decision date: **22 September 2017**

Application Ref: COM/3172239

Port Meadow, Oxford

Register Unit No: CL1

Commons Registration Authority: Oxfordshire County Council

- The application, dated 21 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 the Port Meadow Common WW1 Memorial Group.
 - The works at the riverside picnic area, formerly known as The Bathing Place, at the northern end of Port Meadow comprise:
 - (i) erection of a 1.8m high, 1.5m long and 0.9m wide stone memorial covering 1.35m²;
 - (ii) erection of three 1m x 0.75m information boards on existing fencing; and
 - (iii) removal of two concrete bases.
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Decision

1. Consent is granted for the works in accordance with the application dated 21 March 2017 and the plans 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) the common shall be restored within one month of the completion of the works.
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. Planning permission for the works was granted by Oxford City Council (the Council) on 3 November 2016 (Application No. 16/02305/FUL).
5. This application has been determined solely on the basis of written evidence.
6. I have taken account of the representations made by Historic England (HE) 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:-

¹ Common Land Consents policy (Defra November 2015)

- 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

8. The proposal is to erect a granite memorial to honour 17 airmen who lost their lives flying to and from the aerodrome sited on the meadow adjacent to the picnic area during World War 1. The information boards will give additional information about the history of the aerodrome and the wider history of Port Meadow and its wildlife. It is also proposed to remove two concrete plinths which were the bases for bathing huts (since removed) used in past times when swimming in the Thames at the site was popular.

The interests of those occupying or having rights over the land

9. The land is owned by the Council, which has not commented on the application. Ancient and registered grazing rights exist over the common for the Freemen of Oxford and are exercised by some rights holders under the umbrella of the Wolvercote Commoners Committee. The applicant says the Freemen and the Commoners Committee, who are historically protective of Port Meadow, fully support the proposals, although no representations to this effect have been received from them. Stock fencing separates the picnic area from the wider common and the applicant says there has been no grazing of the picnic area since at least 1900. 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 protection of public rights of access

10. The interests of the neighbourhood test relates to whether the works will impact on the way the common land is used by local people and are closely linked to rights of public access. The applicant advises that the picnic area, which is a strip of land running north to south, open on its western edge to the River Thames, is popular with the public. To its immediate north is a car park, from which visitors access the common. To its east and south is the wider common, separated to the east by a stock-fenced cattle pound and to the south by a gated fence providing pedestrian access through the picnic area. Based on the application and OSS' comments I am satisfied that the works are proposed for an area that is well used by local people and visitors for recreation.
11. The footprint of the memorial will not seriously reduce the amount of land available for recreation; indeed the removal of the concrete plinths will return more land to grass than will be taken up by the memorial. The information boards will be fixed to the southern fence and will not impede access.
12. OSS is concerned that a place of public open-air enjoyment and recreation is not a suitable place for a war memorial reflecting on loss of life. I give little weight to this view and I consider it unlikely that the presence of such a memorial will impair visitors' enjoyment of the common. I am satisfied that the proposed works will not harm the interests of the neighbourhood or public rights of access; indeed, they will provide important historical information about the site that is likely to be of interest to local people and visitors alike. OSS has asked for details of the wording and style of lettering that will appear on the memorial; its reason for doing so eludes me.

Nature Conservation

13. Port Meadow Common falls within the Port Meadow with Wolvercote Common and Green Site of Special Scientific Interest (SSSI) and Oxford Meadows Special Area of Conservation (SAC). However, the strip of land comprising the picnic area lies outside of the SSSI/SAC, with the stock

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.

fencing forming the boundary. Natural England was consulted about the application but did not comment.

14. There is no reason to conclude that the construction of the works will impact on the adjacent SSSI/SAC and no evidence before me that leads me to think the works will harm any other nature conservation interests.

Conservation of the landscape

15. I accept that the purpose of the proposed works is to introduce a new conspicuous feature into the landscape at a point where it will be seen by those using the picnic area and those passing through the area into the wider common. The applicant describes the granite memorial as low key and of an unfussy design echoing the shape of an aircraft wing. I consider the main issue to be determined is the degree to which the scale, positioning and appearance of the memorial is likely to be detrimental to landscape interests.
16. The memorial will be set in the south-east corner of the picnic area near the gate into the wider common. At 1.8 metres in height it will, according to plans submitted with the application, be only marginally taller than the 1.5 metre high stock fencing that will flank it on two sides. When viewed from the north and west it will be seen against the fencing. When viewed from the east it will be seen behind the two stock fencing lines forming each side of the cattle pound. Being dark grey in colour, I do not consider that it will visually clash with the fencing or grassed picnic area to any great degree. The three proposed information boards will be bracket-fixed to the gated fence so will not be free-standing features.
17. The proposed works will introduce a somewhat conspicuous feature into the landscape; that, after all, is their purpose. However, their scale, positioning and appearance means the impact will not be great. The two unsightly concrete bases take up a far larger footprint than the proposed memorial; their removal will benefit the landscape and will help offset any impact the memorial and information boards might have on the appearance of the common. I am satisfied that while the works, by their nature, will have some visual impact it will not be unacceptable, particularly when the removal of the concrete bases is taken into account.

Archaeological remains and features of historic interest

18. Much of Port Meadow is designated as a Scheduled Ancient Monument for its ring ditches, barrows and associated enclosures but the site of the proposed works lies outside the designated area. Historic England advised that it had no comments to make about the application. There is no evidence before me to indicate that the proposed works will harm any archaeological remains or features of historic interest.

Conclusion

19. I conclude that the proposed works will not unacceptably harm any of the interests set out in paragraph 7 above and are likely to enhance visitors' enjoyment of, and interest in, the common. Consent is therefore granted for the works subject to the conditions in paragraph 1.

Richard Holland