



Application Decision

by **Richard Holland**

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

Decision date: 30 October 2017

Application Ref: COM 3183796 The Avenue Lands, Southampton

Register Unit No: CL 6

Commons Registration Authority: Southampton City Council

- The application, dated 27 July 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 Southampton City Council
 - The works comprise 9 m² of common land and will include the excavation to 140mm depth and reinstate with type 1A footway (new impermeable tarmacadam surface and root protection) in order to extend a bus stop waiting area. Existing timber knee high fence to be removed and replaced with a 14 m bund (the bund will be 0.25 m high by 0.75 m wide) to suit the new alignment of the footway; and
 - an area of 9 m² common land adjacent to the proposed works shall be excavated to 100mm depth and reinstated with 100mm topsoil. Emorsgate EL1 Flowering Lawn Mixture with new timber edges installed.
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Decision

1. Consent is granted for the works in accordance with the application dated 27 July 2017 and accompanying plan, 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 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 representations made by the Open Spaces Society (OSS), Natural England (NE) and Southampton Commons & Parks Protection Society (SCAPPS).
6. 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

The interests of those occupying or having rights over the land

7. The landowner is also the applicant and there are no rights registered over the common. I am satisfied that the proposed works will not harm the interests of those occupying the land and the interests of those having rights over the land is not at issue.

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 impact on the way the common land is used by local people. The proposed works are needed to increase the capacity of the adjacent bus stop area. The bus stop currently only allows access for a single bus. Access is needed for two buses to avoid a second bus causing a road safety hazard by stopping across a signalised pedestrian crossing. A grass bund will replace existing fencing to deter the public from accessing the bus stop from the grassland.
9. I note that the OSS and SCAPPS do not object to the application. Local people and the public will still be able to access the land in the way that they use to, although given its location it is unlikely to have much, if any, recreational value. I am satisfied that the proposed works will not impact on the interests of the neighbourhood or the protection of public rights of access.

Nature conservation

10. NE did not have any specific comments on the application as the area on which the works are proposed is very small and not in a sensitive location. 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

11. The new hard surfacing will merge with existing hard surfacing, and will be separated by a grass bund where it abuts the amenity grassland. I am satisfied that the proposed works will not adversely impact on the landscape. There will be no net loss of grassland as an area of tarmacadam will be converted to grass to ensure that the green area is replenished. I conclude that the works will conserve the landscape.

Archaeological remains and features of historic interest

12. I am satisfied that the proposed works will not harm any archaeological remains and features of historic interest.

Conclusion

13. I conclude that the proposed works will not harm the interests set out in paragraph 6 above and will benefit the public by improving road safety. Consent is therefore granted for

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.

the works subject to the condition set out in paragraph 1.

Richard Holland



Key:
 The Avenue Lands boundary
 Proposed works boundary

REV	DATE	DRWN	CHKD	APPD	AMENDMENT

Balfour Beatty
 Living Places
 Working in partnership
 City Depot & Recycling Park
 First Avenue, Millbrook
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 Design Group

 Southampton City Council
 Civic Centre
 SOUTHAMPTON SO14 7LY

DESIGNED TH	DRAWN RMC	DATE 26/06/17	SHEET 1 of 1	REVISION
CHECKED DH	APPROVED RH	SCALE @ A3 1:2500		

DRAWING STATUS
FOR INFORMATION

DRAWING TITLE
 The Avenue Lands

DRAWING NUMBER
 16/AL/M/017/058