
Application Decision

by **Richard Holland**

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

Decision date: 18 December 2017

Application Ref: COM 3179080

Central Parks, Southampton

Register Unit No: CL3

Commons Registration Authority: Southampton City Council.

- The application, dated 7 June 2017, is made under Section 38 of 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 to install a demountable caged multi use games area (MUGA) comprise:
 - i) a 20m x 32m polymeric anti-slip surfaced court;
 - ii) 3m high green powder-coated steel paramesh panelled cage fencing with four access gates; and
 - iii) a temporary works compound surrounding the MUGA site enclosing up to 1477.52 m² of land with up to 172m of heras type fencing for approximately five weeks.
-

Decision

1. Consent is granted for the works in accordance with the application dated 7 June 2017 and accompanying plan, subject to the following conditions:-
 - i. the works shall begin no later than three years from the date of this decision;
 - ii. the gates in the MUGA shall be kept unlocked at all times; and
 - iii. all temporary fencing shall be removed and 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. This application has been determined solely on the basis of written evidence. I have taken account of the representations of support from Simon Young (28:19), Ali Beb (Awaaz FM), Colin Salmon (Cage 4 All), Graham Linecar (Southampton Commons & Parks Protection Society – SCAPPS) and

¹ Common Land Consents Policy (Defra November 2015)

Hampshire County Cricket Supporters Club (HCCSC) and I have noted that the Open Spaces Society (OSS) and Historic England (HE) do not object to the application. I have also taken account of the representations of objection from St Mary's Residents Association (SMRA) and Mr Brian Shelley.

5. 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

6. The land is owned by the applicant, Southampton City Council (the Council). There is one right of common in favour of Hampshire County Council to dig marl over part of the land comprised in this register unit. The County Council has confirmed that whilst this right is still exercisable, it is not its intention to exercise it. I therefore consider that the proposed works will not harm the interests of those occupying or having rights in relation to the land.

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

7. 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 interests of public access. Central Parks comprises five interconnected parks; the eastern most of which is Hoglands Park. Hoglands is treed around its perimeter and footpaths divide it into similarly sized quarters. It has traditionally been used for playing cricket and two of the quarters are given over to unenclosed cricket pitches. A third quarter is heavily treed and is the site of a skateboard park. The remaining quarter is open parkland, which is traditionally used for fairs and events. It is here that the MUGA, which was granted planning permission on 2 March 2017 (Application No. 16/01934/FUL), is proposed to be sited.
8. The MUGA is proposed to provide a facility for young people of diverse ethnic backgrounds in the neighbourhood to engage in a more healthy and active lifestyle. Its siting is designed to draw recreational use away from the cricket pitches, which are in decline because they are being damaged by activities other than cricket. It is hoped that this will allow the cricket pitches to recover and to once again be used for their intended purpose. The MUGA is proposed to be placed towards the perimeter of the park, which will keep the majority of the quarter free for general neighbourhood use and public access.
9. SMRA is concerned that the MUGA will be used mostly by students rather than by those living in the locality and that it may draw more students to the park, which will impact on resident's parking needs and exacerbate existing drug problems. Presumably, SMRA is concerned about the anti-social behaviour that can result from drug abuse and the impact this may have on those wishing to enjoy the common. Mr Shelley has similar concerns about undesirable gatherings; especially as a MUGA in nearby James Street has recently been removed because it attracted anti-social behaviour. He is also concerned that the MUGA site will interfere with an area of Hoglands that has traditionally been used for fairs, shows and events.

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.

10. There is a lot of student accommodation in the Central Parks area and the students living there are local residents in much the same way as others living in the area; they may use the park as may any other local residents. Furthermore, use of the MUGA by students is in part what the Council wishes to see happen as it considers that the large local student population contributes significantly to the unwanted use of the cricket pitches for other recreational purposes. No independent, expert evidence has been presented to support claims that there is a direct link between the use of MUGA and drug abuse. Indeed, the provision of recreational facilities such as MUGA may give people an opportunity to make positive use of their leisure time as an alternative to drug abuse. Increased use of the proposed MUGA may lead to greater demand for parking spaces in the vicinity but this is an issue unrelated to how the works will affect the common or the way it is used and I cannot give it any weight.
11. The Council confirms that the nearby MUGA was removed (and relocated elsewhere) because of anti-social behaviour by some users. However, it considers the James Street site, which is immediately next to housing blocks in a densely populated residential estate, to have been a poor choice for a MUGA compared with the Hoglands site. The Council also says that the proposed MUGA will be 'demountable'; meaning that the whole above ground structure can be dismantled and temporarily removed so that it will not obstruct fairs and events. The Council adds that the remaining hard surface may actually be beneficial to such events in terms of providing an area with a dry level surface for the setting out of stalls and sports demonstrations.
12. Whilst the MUGA will take up an area of approximately 640 m² that will no longer be available to the neighbourhood and the public as open parkland, it is small as a proportion of Hoglands Park and less than 0.2% of the area of Central Parks common as a whole. I give significant weight to the Council's intention to encourage activity away from the cricket pitches so that they can be used for their intended purpose and to encourage young people in the neighbourhood to live a more healthy and active lifestyle. I also give weight to the Council's intention to leave all four MUGA gates unlocked so that it is open to access by local people and the wider public at all times, which can be secured by attaching a suitable condition to the consent.
13. It is proposed to erect heras style temporary works fencing around the MUGA during its construction. This will create a works compound enclosure of up to 1477.52 m² to which public access will be completely prevented during the five weeks period of works. I am satisfied that excluding the public from the work site in this way is necessary for health and safety reasons and that the extent of the compound does not exceed what is reasonable. I consider that the temporary enclosure of land will not significantly harm public access interests in the long term.
14. I conclude that the proposed MUGA will not significantly interfere with the interests of the neighbourhood or public access, will provide a facility for younger sections of the community and may assist in bringing other, larger, areas of the park back into traditional use.

Nature conservation, archaeological remains and features of historic interest and conservation of the landscape

15. There is no evidence before me to indicate that the proposed works will harm nature conservation interests or harm any archaeological remains or features of historic interest.
16. As an artificial structure that is three metres in height the MUGA will undoubtedly have a visual impact on the landscape. However, as its sides will be of a green coloured see-through mesh construction and it will be set closely against perimeter trees, its impact will be reduced to a certain extent. I am satisfied that its positioning is sympathetic to landscape considerations and I accept that measures to screen it from view with additional planting would be inappropriate as it may create an area away from public sight where anti-social behaviour could flourish.

Conclusion

17. I conclude that the proposed works will not unduly harm the interests set out in paragraph 5 above and that any impact on landscape interests will be outweighed by benefits to the neighbourhood by providing additional recreational facilities and by discouraging inappropriate use of the existing cricket pitches. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland

CENTRAL PARKS 1:1500 AT A1

