
Application Decision

by **Richard Holland**

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

Decision date: 29 May 2018

Application Ref: COM 3197456

Empty Common, Cambridge

Register Unit No: CL63

Commons Registration Authority: Cambridgeshire County Council.

- The application, dated 5 March 2018, 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 Empty Common Community Garden.
 - The works comprise:
 - i. installation of a 3m high, 6m x 6m (36 square metres) meeting room/event space hut made from wood and bio-composite materials; and
 - ii. a stake and tape barrier around the site enclosing approximately 144 square metres of land for the duration of the works.
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Decision

1. Consent is granted for the works in accordance with the application dated 5 March 2018 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 in red on the attached location plan.

Preliminary Matters

3. The application form says the hut is likely to have a lifespan of between 10 and 15 years. The applicant has since advised that the hut is expected to have a lifespan of at least 20 years. In any case, the application seeks consent for a permanent hut and it has been determined on that basis.
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.
5. This application has been determined solely on the basis of written evidence.
6. I have taken account of the representations made by the Open Spaces Society (OSS) and the Cambridgeshire County Council Senior Archaeologist, neither of which object to the application.

¹ Common Land Consents Policy (Defra November 2015)

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 land is owned by Cambridge City Council (the Council), which was consulted by the applicant about the proposals but has not commented. The common land register shows that rights to graze animals over the whole of the common are registered to the Mayor, Alderman and citizens of the City of Cambridge. The applicant has said that the rights over the common are not exercised. There is no evidence before me to suggest that the works 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 interests of public access. The common is laid out as public allotments except for a small area in the south east corner where Empty Common Community Garden is situated. The hut is proposed to be sited in the far corner of this plot, which is currently unused as it offers poor gardening conditions due to shading by trees and the presence of brambles and nettles.
10. I consider it unlikely, in its current state, that the application site is a well-accessed area of the common so the introduction of a hut will interfere negligibly with public rights of access to it. During the 6 months or so that the works will take to complete 144 square metres of common will be taped off and, although it will not be an impenetrable barrier, it will demarcate an area from which the public is intended to be excluded. Nevertheless the taped off area will still be within the dis-used section of the common, indeed the tape will separate the works area from the rest of the garden. I am therefore satisfied that the works will not have a serious impact on rights of public access during the construction period.
11. The garden is a community project set up by local people in partnership with the Council and is open to all ages and abilities. The hut is intended to offer an indoor space where local people can meet, share skills and hold informal learning groups. I consider that the hut will be of benefit to the interests of the neighbourhood by providing a facility that supports the use of this area of the common as a community garden.

Nature conservation

12. The hut will incorporate existing trees and its construction would not seem to result in the loss of much, if any, vegetation or important wildlife habitat; there is no evidence before me to indicate that the proposed works will harm nature conservation interests.

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.

Conservation of the landscape

13. The hut will be earth colour and made from wood and bio-composite materials such as cob, cordwood, hempcrete, wattle and daub. No ground disturbance will be required for installation of an electricity supply, which will be provided by batteries, or other services. I am satisfied that a combination of its small size, its positioning in the corner of the common, its setting in an established community garden and the use of natural materials of a sympathetic colour means the proposed hut is unlikely to have a detrimental impact on the landscape.

Archaeological remains and features of historic interest

14. The County Council Senior Archaeologist has confirmed that there are no designated heritage assets in the vicinity that would be affected by the scheme. There is no evidence before me to indicate that the proposed works will harm any archaeological remains or features of historic interest.

Conclusion

15. I consider that the proposed works are unlikely to seriously harm any of the interests set out in paragraph 7 above and they will be of benefit to the neighbourhood by providing a facility that is consistent with the established use of the common as a community garden. I conclude therefore that consent should be granted for the works subject to the condition set out in paragraph 1.

Richard Holland



Empty Common 1 :2,500

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