
Application Decision

by **Richard Holland**

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

Decision date: 13 July 2018

Application Ref: COM/3198290
Roborough Common, Yelverton, Devon

Register Unit No: CL93

Commons Registration Authority: Devon County Council

- The application, dated 10 May 2018, 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 Quoinstone Yelverton Ltd, Estover Close, Estover, Plymouth PL6 7PL.
 - The works comprise:
 - i. Three sections of 1.2m wide tarmac footpath totalling 118m in length and covering an area of 141.6 sqm; and
 - ii. temporary safety/security fencing around the working area.
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Decision

1. Consent is granted for the works in accordance with the application dated 10 May 2018 and the plan submitted with it subject to the following conditions:
 - i. the works shall begin no later than 3 years from the date of this decision;
 - ii. all temporary fencing shall be removed on 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. The application form was originally dated and submitted on 15 March 2018 along with confirmation that the application advertising requirements, including the publishing of an application notice, had been carried out in full. However, the notice was deficient and the applicant was required to publish an amended notice and to re-advertise the application in full. Confirmation of full re-advertising was accompanied by a re-submitted application form dated 10 May 2018. This is the application before me for determination.
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.

¹ Common Land Consents policy (Defra November 2015)

6. I have taken account of the representations made by Natural England (NE) and the Open Spaces Society (OSS), neither of which object to the application.
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 Maristow Estate which was consulted by the applicant about the proposals but did not comment. There are extensive registered rights over the common including rights of grazing, turbary, common in the soil, straying and piscary. The applicant is not aware of any rights being exercised over the area of common subject to the works, which lies within a finger of land extending each side of the B3212 road into the town of Yelverton. Dartmoor Commoners Council, which maintains various common land units including CL93, was consulted by the applicant but did not comment. There is no evidence that any rights are exercised over this area of the common and I am satisfied that the works are unlikely to 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 affect the way the common land is used by local people and is closely linked with the interests of public rights of access. The finger of common land is characterised by grassed strips crossed by a number of roads. The proposed new lengths of footpath will link with existing footpaths and a pedestrian crossing over the B3212 to provide a fully paved pedestrian route across the finger of land. The parish council requested the works, which are to be carried out by the applicant under a planning permission agreement, to complete a safe pedestrian route and discourage informal crossing of the B3212. I consider these proposals to be in the interests of local people who cross the finger of land and of public rights of access in general.
10. The application includes proposals to erect safety/security fencing around the sections of path during their construction. The applicant has advised that this will most likely be 1m high plastic barrier fencing. As the fencing will be removed on completion of the works, which are expected to take around 4 weeks, I am satisfied that it will not seriously harm public rights of access.

Nature conservation

11. There is no evidence before me that leads me to think the works will harm any statutorily protected sites or other nature conservation interests.

Conservation of the landscape

12. The site lies within Dartmoor National Park, albeit in a semi-urbanised setting. It is nevertheless a green space that will be visually interrupted by sections of 1.5m wide tarmac path. However, the applicant has said that in the absence of a complete paved route land is being damaged by foot traffic where there is no appropriately constructed path. I consider it likely that the grassed surface will be further damaged in places where there is no path and that this would be visually more

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.

harmful than additional sections of tarmac path. I therefore conclude that, on balance, the works are in the interests of protecting the landscape and will help conserve the natural beauty of the National Park in the long term.

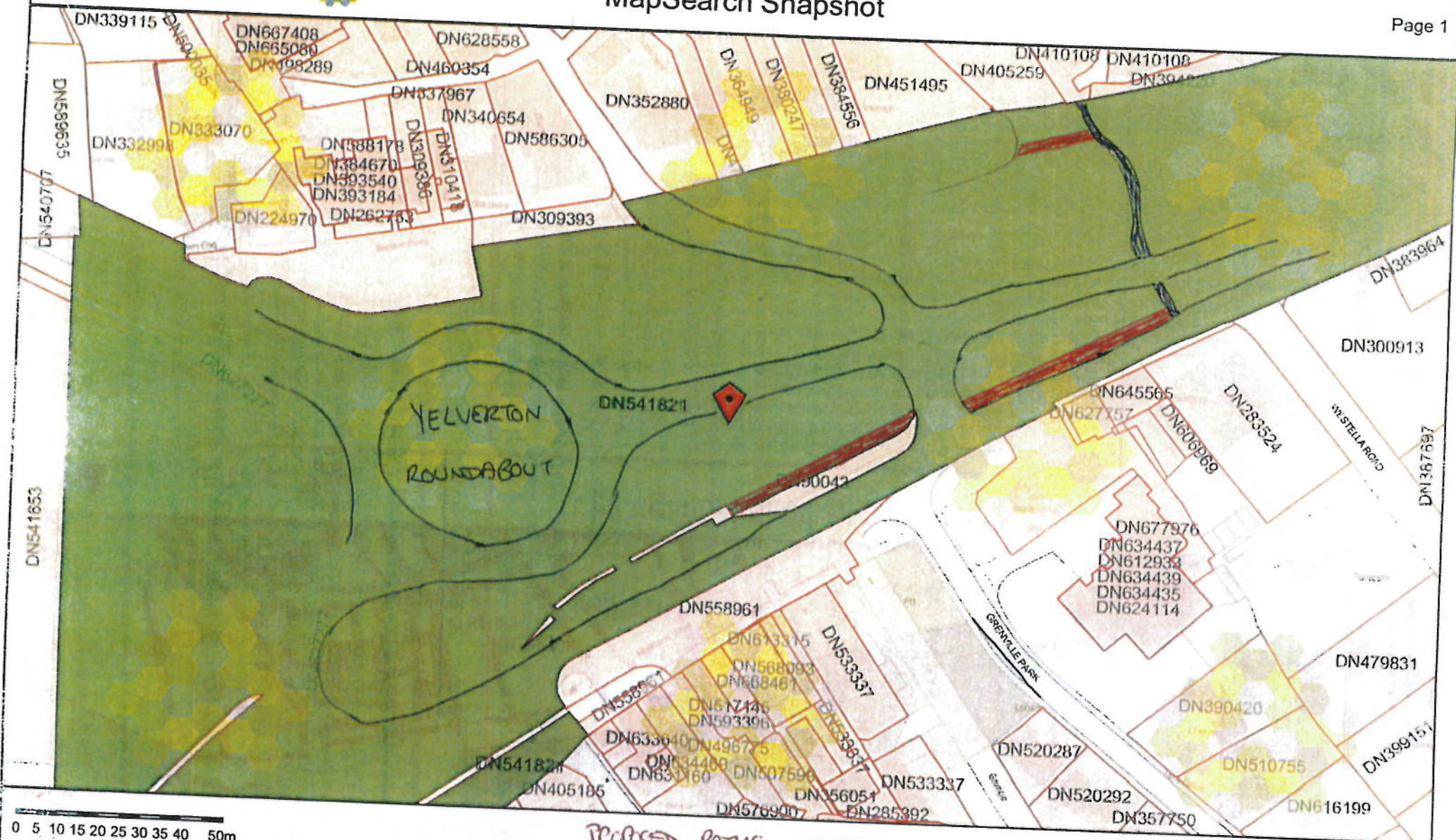
Archaeological remains and features of historic interest

13. There is no evidence before me of any archaeological features within the application site or nearby. I am content, therefore, that the works are unlikely to harm any such remains or features.

Conclusion

14. I conclude that the works will not unacceptably harm the interests set out in paragraph 7 above and that they are in the interests of safe public access to the common land. Consent is therefore granted for the works subject to the conditions at paragraph 1.

Richard Holland



0 5 10 15 20 25 30 35 40 50m

PROPOSED PATHS



EXISTING PATH



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