
Application Decision

by **Richard Holland**

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

Decision date: 7 December 2018

Application Ref: COM/3208297

Bursdon Moor, Devon

Register Unit No: CL 1

Commons Registration Authority: Devon County Council

- The application, dated 26 July 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 the Bursdon Moor Commoners Association.
 - The works comprise replacement and repositioning of 3661 metres of existing fencing and allied scrub clearance on 3.96 hectares. The fencing will be permanent and located on the common boundary together with a timber handling pen 152 m² located in the north east corner.
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Decision

1. Consent is granted for the works in accordance with the application dated 26 July 2018 and accompanying plan, subject to the following conditions:
 - (i) the works shall begin no later than three years from the date of this decision; and
 - (ii) the access gates shall comply with BS 5709.
2. For the purposes of identification only the location of the works are shown in red on the attached plans.

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 the Planning Officer at Torridge District Council.
6. I am required by section 39 of the Commons Act 2006 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);

¹Common Land Consents Policy (Defra November 2015)

- 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 applicant confirms that the landowner, Sir Hugh Stuckley, has been consulted about the application; he has not objected to the application. The rights are managed by the Bursdon Moor Commoners Association which reports that currently 10 commoners actively exercise grazing rights in accordance with an Environmental Stewardship Plan.
- 8. By enabling better animal welfare, the cattle handling facility will help improve management of grazing which will benefit commoners with grazing rights over the land. I am satisfied that the proposed 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

- 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. The works involve the replacement and repositioning of fencing in connection with a Countryside Stewardship Scheme to restore a priority habitat. The applicant explains that the current fencing will be repositioned to a line following the boundary of the common to enhance the habitat, clear scrub and increase the grazing area. The common is bisected by the busy A39 and bounded by minor county roads; fencing is required to maintain the safety of cattle and road users. A cattle handling facility and loading pen will be provided on the common to manage cattle and improve animal welfare. The applicant confirms that the common is regularly accessed by members of the public and there will be no change to any of the existing access arrangements. 'Trampers' and similar specialist vehicles can be used to access the moor and all gates will conform to BS 5709. The OSS does not object to the application.
- 10. I am satisfied that the works are required to maintain the health and safety of both the public and cattle, given that the common is split by a major road. I agree that placing fencing closer to the common land boundary will help better manage vegetation on the common, which is likely to improve access and use of the common by the public for recreation. The cattle handling facility will occupy a relatively small area of common and will not unacceptably impact on access. I am satisfied that overall the works will benefit the interests of the neighbourhood and protect public rights of access.

Nature conservation and conservation of the landscape

- 11. The common is located in the North Devon Area of Outstanding Natural Beauty (AONB) and is part of the Bursdon Moor Site of Special Scientific Interest (SSSI) and Culm Measures Special Area of Conservation (SAC). The works will incorporate strips of common beyond the current fencing but within the common land boundary. The fencing will utilise natural materials such as timber and is of a similar height (1.05m) and specification to the current fencing. The location of the fencing and cattle handling facility has been chosen to minimise its visual impact.

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.

12. NE supports the application in terms of its nature conservation objectives. It explains that the SSSI is notified for its rare habitat, Culm Grassland. Traditional management of this site is grazing which has resulted in the moor being considered in mostly favourable condition with a small area being in unfavourable recovering. The continuation of grazing on the common will maximise the area of priority habitat and ensure that as much as possible of this habitat is managed appropriately. The cattle handling facility will allow cattle to be kept on the common and ensure that important management of the SSSI by cattle grazing will continue.
13. I am satisfied that the works are needed to manage the SSSI through the continuation of traditional grazing. The increase in land available for grazing will improve visual amenity and the priority habitat across the common. I conclude that the proposed works will benefit nature conservation interests and will enhance the landscape and natural beauty of the AONB.

Archaeological remains and features of historic interest

14. I am satisfied that there is no evidence before me to indicate that the works will harm any archaeological remains and features of historic interest.

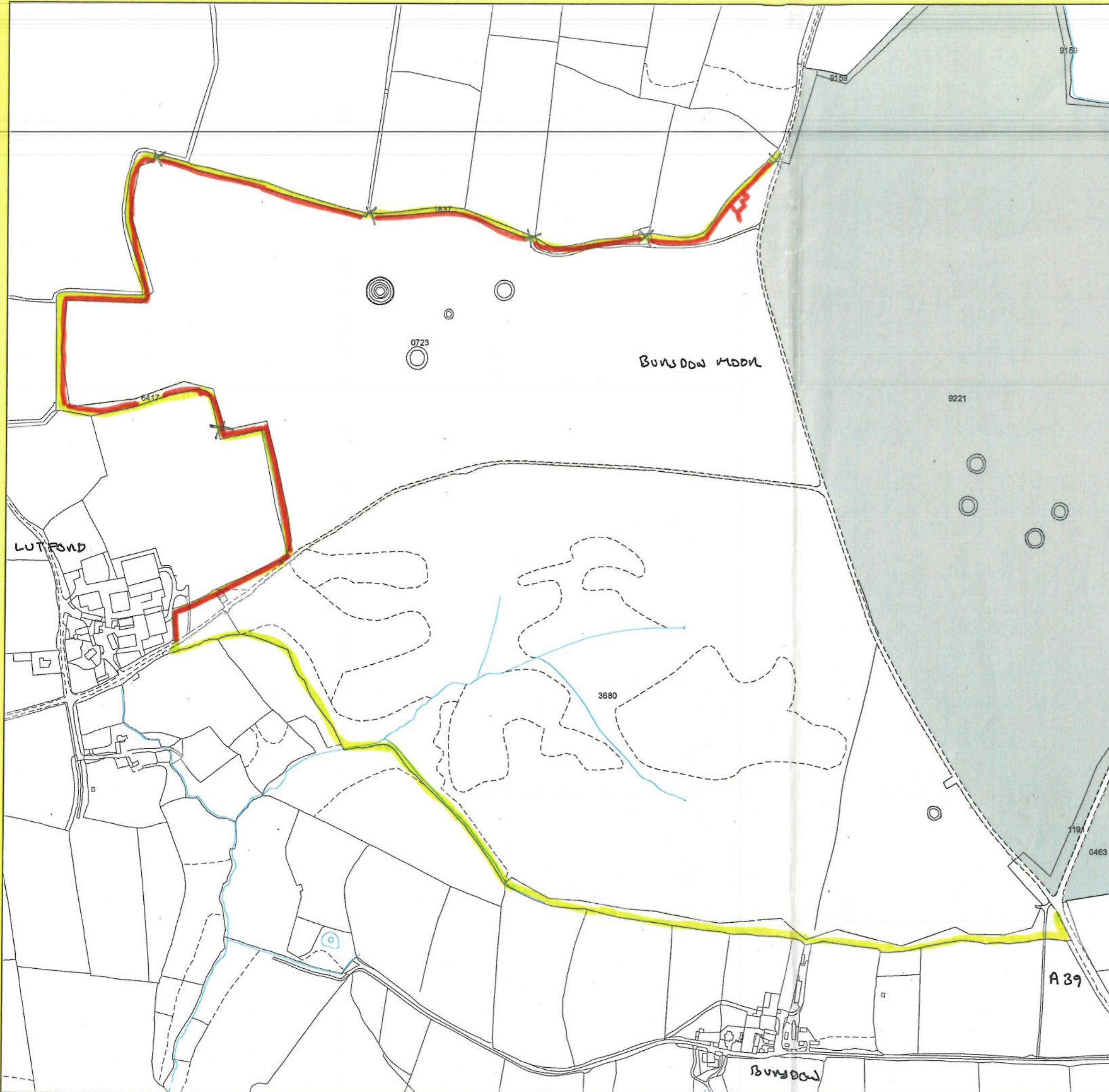
Any other matters

15. I do not consider, on basis of the information before me, that the objectives of this application need to be reviewed from time to time or can be achieved within a predictable timeframe. The common is crossed by a major road and the works are needed to protect the public and cattle. The fencing will also link to existing perimeter fencing. Although the main objective of the works is to facilitate cattle grazing in accordance with an Environmental Stewardship Scheme, there is no indication that grazing will cease. The common is traditionally grazed by cattle which is important for the management of the SSSI and there is no reason for me to believe that this might change. I am therefore satisfied that the proposed works accord with the policy guidance and that a permanent consent is justified.

Conclusion

16. I conclude that the works will not harm any archaeological remains and features of historic interest and will benefit those having rights over the land, the neighbourhood and public rights of access, the landscape and nature conservation interests. Consent is granted for the works subject to the conditions set out in paragraph 1.

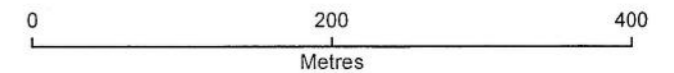
Richard Holland



COUNTRYSIDE STEWARDSHIP HIGHER TIER - OPTIONS MAP

Options	Assigned colour	Applicants colour match
BE	Management of hedgerows	==
WT	Management of ditches of high environmental value	==
WD	Woodland edges	==
BE	Protection of trees / Veteran tree surgery *Number within circle represents number of trees in parcel	(6)
BE	Options for orchards and trees	□
WD	Options for woodland, wood pasture and parkland and scrub	□
HS	Maintenance of weatherproof traditional farm buildings	○
HS	Options to protect historic environment features	□
AB,SW,WT	Buffer Strips - for arable options (AB) - for soil and water options (SW) - for wetland options (WT)	==
AB	Options for arable land	□
SW	Options to protect soil and water	□
GS	Options for grassland	□
UP	Options for upland moorland and rough grazing	□
LH	Lowland heathland options	□
CT	Inter-tidal and coastal options	□
WT	Wetland options	□
WT	Management of ponds < 100 sqm	○
OP,OR,OT	Options for organic land	□
FG12 BN	Capital item	●
WNS	Field number	5678
	Holding parcels (buff coloured parcels are to be marked up on this map. Any grey parcels are covered on other maps)	□

You must write on the map in black the specific codes for options you have selected or require, including any supplements e.g. BE4, CT3, GS6, LH1, SP6, UP3



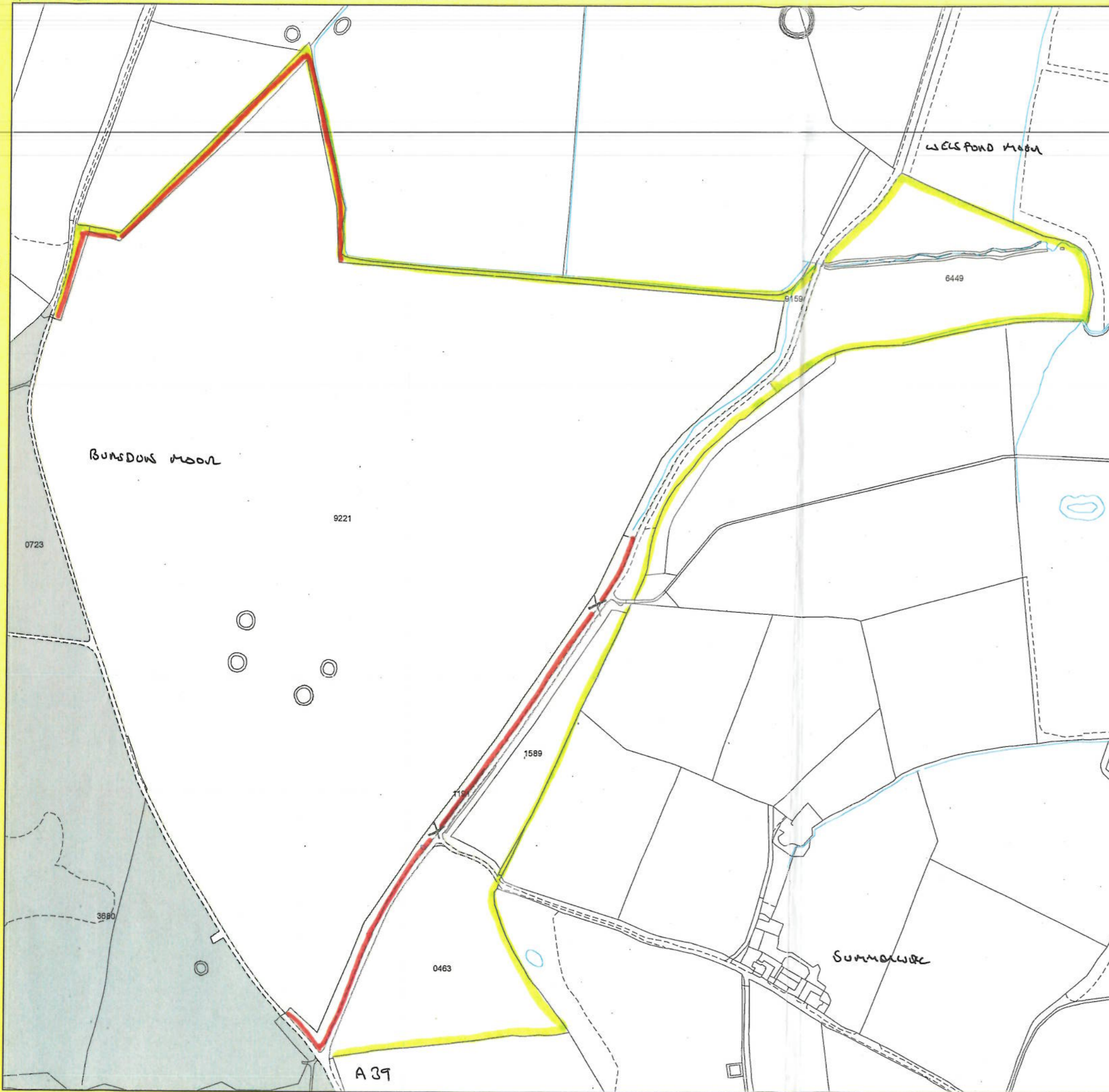
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- REPLACEMENT FENCING
- ANIMAL HANDLING PEN
- X GATEWAY

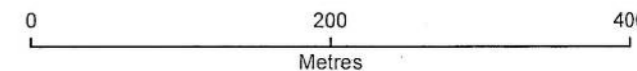




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BE	Options for orchards and trees	□
WD	Options for woodland, wood pasture and parkland and scrub	□
HS	Maintenance of weatherproof traditional farm buildings	○
HS	Options to protect historic environment features	□
AB,SW,WT	Buffer Strips - for arable options (AB) - for soil and water options (SW) - for wetland options (WT)	==
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