



Application Decision

by **Richard Holland**

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

Decision date: 8 August 2019

Application Ref: COM/3211520

Barnham Cross Common and Melford Common, Thetford, Norfolk

Register Unit No: CL76 and CL74

Commons Registration Authority: Norfolk County Council

- The application, dated 7 September 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 Thetford Town Council.
 - The works comprise:
 - i. installation of two sections of 0.7m high wooden post bollards, each with a vehicle access gate, totalling 652m in length (349m at Melford Common East and 303m at Melford Common West);
 - ii. resurfacing of the existing large and medium car parks at Barnham Cross Common with compacted aggregate material covering a total of 2197m²;
 - iii. installation of metal height barriers and associated bollards at the entrances to the large and medium car parks at Barnham Cross Common; and
 - iv. installation of a metal field gate at the small car park at Barnham Cross Common.
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Decision

1. Consent is granted for the works in accordance with the application dated 7 September 2018 and submitted plans subject to the following conditions:
 - i. the works shall begin no later than 3 years from the date of this decision;
 - ii. the vehicle gates at Melford Common shall be of wooden construction; and
 - iii. the land shall be fully reinstated within one month of completion of the works.
2. For the purposes of identification only, the location of the proposed works is shown on the attached plans.

Preliminary Matters

3. The application as originally made also included proposals for School Plain Common (CL72), although the published application notice made no reference to them. The notice did however refer to additional proposals that were not included in the application. These proposals were ditching and mounding at Melford Common and at the large and medium car parks at Barnham Cross Common. The applicant has since amended the application to remove the School Plain Common proposals and to reduce the Melford Common bollarding from 1386 metres to 652 metres. The applicant has also confirmed that no ditching and mounding is proposed and has provided more detailed application plans. These amendments provide clarity and amount to lesser works than originally proposed and advertised. I am satisfied that they have not prejudiced any person wishing to make a representation about the application.

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 Historic England (HE), the Open Spaces Society (OSS), Dr Robert Whittaker and Mr Jon Ford.
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. Both commons are owned by the applicant, Thetford Town Council. The common land registers record no rights of common. I am satisfied that the works will not harm the interests of those occupying or having rights over the land.

The interests of the neighbourhood and public rights of access

9. The interests of the neighbourhood test relates to whether the works will impact on the way the common land is used by local people and is closely linked with interests of public access. The main purpose of the works is to prevent unauthorised vehicles from accessing the commons following previous encroachment by traveller communities, which damaged some areas of land and discouraged public access.
10. The bollarding at Melford Common is proposed to join with existing similar bollarding to prevent unauthorised vehicular access along the perimeter of the common where it is bounded by the highway. The two gates will allow authorised vehicular access for maintenance.
11. The height barriers and associated bollarding at the large and medium Barnham Cross car parks is to prevent access by large vehicles. They will not prevent, or particularly impede, public access on foot or prevent the continued use of the car parks for car sized vehicles. The works at these two car parks to replace old and badly worn compacted aggregate surfacing will impede public access only temporarily and for no longer than it takes to carry out the works.

¹ Common Land consents policy (Defra November 2015)

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. The small Barnham Cross car park is to be closed and the proposed metal gate will intentionally prevent public vehicular access further than 9 metres from the road. The farmer of the adjoining land requires access several times a year for moving stock and will be a key holder. The applicant has confirmed that the gate will not prevent continued access on foot.
13. I conclude that the works will not have an unacceptable or lasting impact on access rights over the commons; indeed, they are in the interests of keeping the commons free from unauthorised vehicular encroachment that restricts public access and damages the commons.

The public interest

Nature Conservation

14. All three car parks lie within the Barnham Cross Common Site of Special Scientific Interest (SSSI). However, as the land is already used for car parking, I consider it unlikely that the height barrier, re-surfacing and metal gate works will cause unacceptable harm to nature conservation interests. I note that Natural England was consulted about the application and did not object to it. Melford Common has no statutory nature conservation designation and I consider it unlikely that the installation of bollards around areas of the perimeter bounded by highway will damage nature conservation interests.

Conservation of the landscape

15. The car parks are situated alongside the A134 road, which runs through Barnham Cross Common. Melford Common is an open grassed area further to the north that is mainly bounded by residential roads. Neither common has any special designated landscape value but in each case the works will cause some visual harm.
16. OSS raised concerns that the scale of the proposed car park works could have a severe visual impact and suburbanise the area, although Dr Whittaker considers that the locations and surroundings of the car parks means that the visual intrusion would be minimal. The proposed like-for-like resurfacing will retain the existing surface type and the applicant has advised that trees will be planted around the car park perimeters to soften the impact of the works. I conclude that the car park works will not cause unacceptable harm to landscape interests.
17. Dr Whittaker raised concerns that the proposed Melford Common bollards and, in particular, the vehicle gates will be an eye-sore that will detract from the open aspect of the grassed common. The bollards will be green/brown wooden posts designed to suit local surroundings, including some existing bollards, and I consider that their visual impact will not cause serious harm to the landscape. The gates are bigger and therefore more visible. However, the applicant has agreed to install wooden gates rather than metal ones as originally intended, which can be required by attaching a suitable condition to the consent. Whilst they may be just as visible as metal gates, I consider that they will better suit the surroundings and will not cause unacceptable harm to the landscape.

Archaeological remains and features of historic interest

18. HE advised that non-designated heritage assets may be present at the sites and that the applicant should consult the County Council's Archaeological Service about any necessary archaeological mitigation measures. The applicant has arranged for Norfolk County Council's Archaeology and Historic Environment Team to visit the site and to advise

accordingly. I am satisfied that measures will be put in place to ensure that the works will not harm any archaeological remains or features of historic interest.

Other matters






19. Dr Whittaker contends that the risk of unauthorised vehicle encroachment is overstated and unproven and that the Melford Common bollards and gates are unnecessary. The applicant says the bollarding is part of a wider initiative to protect local land that is vulnerable to unauthorised vehicular encroachment and if Melford Common is left unprotected whilst measures are taken at other local at-risk sites, it will become a target for encroachment. I am satisfied that in making the application the applicant is acting in good faith to protect the land. Dr Whittaker also raised concerns about bollarding adjacent to Nuns' Bridges Road and Mill Lane. The application proposes no works at this separate site and any such works are not a matter for my consideration in determining this application.
20. Mr Ford's concerns are about the closure of the small car park, which he uses when walking his dog on Barnham Cross Common. He disputes that it is regularly fly-tipped and is uneconomical to maintain. OSS suggests that in order to limit the impact of the works two of the three car parks should be closed and the works concentrated on the remaining site, although it did not specify which two should be closed.
21. The applicant says the medium and large car parks are important to facilitate public access to the common but that the small car park is not well used. Once the small car park is closed there will be space for one vehicle in front of the proposed gate. It will be primarily for the farmer's infrequent use and will otherwise be available for use by Mr Ford and, indeed, by any other person.
22. I have already concluded that the proposed car park works are in the interests of maintaining public access to the common. Beyond that, the applicant's car park retention strategy is not a matter for my consideration in determining this application.

Conclusion

23. I conclude that the proposed works will help to prevent unauthorised vehicular access, which will benefit local use of, and public access over, the two commons and will not significantly harm the other interests set out in paragraph 7 above. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland



-  Gates
-  removable posts
-  Boundaries Melford Common
-  posts
-  OSM Standard