

Application Decision

by Richard Holland

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

Decision date: 29 August 2019

Application Ref: COM/3230901

Aldringham Green, Suffolk

Register Unit No: CL 174

Commons Registration Authority: Suffolk County Council.

- The application, dated 5 June 2019, 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 Aldringham-cum-Thorpe Parish Council.
 - The works comprise (i) a children's play area on 198 m²; and (ii) 58 m length of fencing.
-

Decision

1. Consent is granted for the works in accordance with the application dated 5 June 2019 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 works shall be removed on or before 29 August 2044.
2. For the purposes of identification only the location of the works is shown outlined 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.
5. I have taken account of the representation made by the Open Spaces Society (OSS).
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);
 - b. the interests of the neighbourhood;

¹ Common Land Consents Policy (Defra November 2015)

- 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 landowner, Mr Glencairn Ogilvie has been consulted and has not objected to the works. There are no rights registered over the common. I am satisfied that the works will not harm the interests of those occupying and interests of those having rights over the land is not at issue.

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

- 8. The interests of the neighbourhood test relates to whether the works will interfere with the way the common land is used by local people. The applicant explains that the village has no area for children to play and lacks a village hall or other meeting place for local families. A development of 40 houses has added further pressure for play facilities. The site of the works was identified by a local community group as a suitable location for the play area as it is naturally well screened and rarely used for access or recreation. The applicant confirms that local households responded positively to consultation on the scheme and is of the view that it will contribute to the social cohesion of the village. The play area will be fenced to protect children from the busy B1353 Aldringham Lane and to deter dog/deer/fox fouling.
- 9. I accept that the fencing is needed for the health and safety of its users. A single pedestrian gate will maintain access to the fenced area and a double gate will be used for grass cutting machinery. I am satisfied that the fence will not unacceptably impinge on public rights of access given that the area is not currently well used and access will be maintained. The works will benefit local families and improve use of the common for recreation. I am satisfied that the works will positively contribute to the way the common is used by local people. I conclude that the works will benefit the interests of the neighbourhood and will not unacceptably impact on public rights of access.

Nature conservation

- 10. I am satisfied that there is no evidence before me to indicate that the proposed works will harm nature conservation interests.

Conservation of the landscape

- 11. The play area consists of five pieces of equipment surrounded by 900 mm high timber fencing. The applicant explains that the play equipment will be constructed of natural materials such as timber and the fencing will be galvanised posts and rails with half round timbers. All works will be treated with clear preservative to blend in with the wooded surroundings and the galvanised finish on metalwork will be left unpainted to dull down.
- 12. The common is described by the applicant as comprising a large area of gorse surrounding a well-kept grassed area with some individual trees and benches. The works will be screened by existing vegetation that will be allowed to thicken to reduce noise and pollution from the road and a planting scheme will improve tree cover on the common. A small cherry tree will be relocated and a gorse bush removed to facilitate the works.

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.

13. I consider that the works are in keeping with the character of the common. I am satisfied that any visual impact will be limited and will be mitigated by existing and future planting on the common. I conclude that the works will conserve the landscape.

Archaeological remains and features of historic interest

14. 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 conclude that the works will benefit local families/children through the provision of play facilities in the village and so be in the interests of the neighbourhood. The works will not unacceptably harm the other interests set out in paragraph 6 above. The OSS submitted that the works should be time limited to 25 years after which the need for the play area should be reviewed. The applicant in response agreed that the works will be reviewed in 25 years. I accept that such a condition is justified. Should the need for the play area remain after this time a further application for consent may be made. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland

Play area photo position plan



PHOTO POSITIONS
N.T.S.

Mill Green, Aldringham, Leiston. IP16 4PZ

