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# Application Decision

**by Richard Holland**

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

Decision date: 9 October 2019

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## **Application Ref: COM/3233254**

### **Saltmarshes in the Parish of Bolton-le-Sands and Warton, Lancashire**

Register Unit No: CL 35

Commons Registration Authority: Lancashire County Council

- The application, dated 4 July 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 Lancashire County Council.
  - The works comprise the installation of new sleeper bridges (approximately 27) ranging from 3m to 10m in length.
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## **Decision**

1. Consent is granted for the works in accordance with the application dated 4 July 2019 and accompanying plan, subject to the condition that the works shall begin no later than five years from the date of this decision.
2. For the purposes of identification only the location of the works is shown as red circles on the attached plan.

## **Preliminary Matters**

3. I have had regard to Defra's Common Land Consents Policy<sup>1</sup> 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), Lancashire County Council Historic Environment Team, Historic England and Ian Brodie on behalf of the Ramblers (Lake District Area).
6. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:-

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<sup>1</sup> Common Land Consents Policy (Defra November 2015)

- 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;<sup>2</sup> and
- d. any other matter considered to be relevant.

## **Reasons**

### ***The interests of those occupying or having rights over the land***

7. The landowners, Thomas Mason, Bolton-le-Sands Parish Council and Morecambe Bay Wildfowlers have been consulted about the application and have not objected. The applicant confirms that two commoners exercise grazing rights over the common. The commoners have not objected to the works. 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 the protection of public rights of access***

8. The interests of the neighbourhood test relates to whether the works will impact on the way the common land is used by local people. The applicant explains that the works on the common form part of a project by Natural England (NE) to improve coastal access on foot between Silverdale and Cleveleys. The alignment of the path will largely follow an existing coast path on the common. The works are needed to improve accessibility for all users including those with reduced mobility as the numerous creeks and channels which traverse the common are difficult to cross. The OSS and the Ramblers support the application as they consider that the works will benefit public access and the enhancements will improve public enjoyment of the common.
9. I accept that the works are needed to ensure that the path meets the required standards of a national trail. I consider that the works are likely to encourage the public's use of an existing footpath and the improvements will benefit the way the common is used by local people and the public's enjoyment of the common. I conclude that the works will benefit the interests of the neighbourhood and the protection of public rights of access.

### ***Nature conservation and conservation of the landscape***

10. The common lies within the Morecombe Bay Site of Special Scientific Interest (SSSI) Morecombe Bay Ramsar site, the Morecombe Bay and Duddon Mosses Special Protection Area (SPA) and Special Area of Conservation (SAC). The works are approximately 1 m wide and will be constructed of brown plastic to cope with the environmental conditions and high tides. The OSS and the Ramblers agree that the works will have little impact on roosting/nesting birds while improving public enjoyment of the common.
11. I consider that the works are in keeping with the nature of the common and are likely to protect the common by reducing the creation of multiple routes and resulting damage to vegetation. I am satisfied that the works will not harm nature

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<sup>2</sup>Section 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 interests. Plastic sleepers are unlikely to weather, and therefore blend in with their surroundings, in the same way as timber sleepers. However, I appreciate that the proposed sleepers need to be durable and, as they will be brown, I do not consider that they will be unduly prominent in the landscape.

### ***Archaeological remains and features of historic interest***

12. HE does not object to the works. The Historic Environment Team at Lancashire County Council confirms that the works do not appear to have any significant archaeological implications. While there may be some 'historic' items such as WWII anti-guilder posts, a loss of a few would not be significant. I am satisfied that the works will not harm archaeological remains and features of historic interest.

### **Other**

13. The applicant explains that the works arise from coastal access projects under Part 9 of the Marine and Coastal Access Act 2009. The applicant expects NE to submit coastal access proposals in October 2019. The works will only be undertaken if the coastal access projects are separately approved by the Secretary of State. I note that the projects may take several months or years to progress and therefore consider that in this instance it is reasonable to apply a condition of five years in which to commence the works.

### **Conclusion**

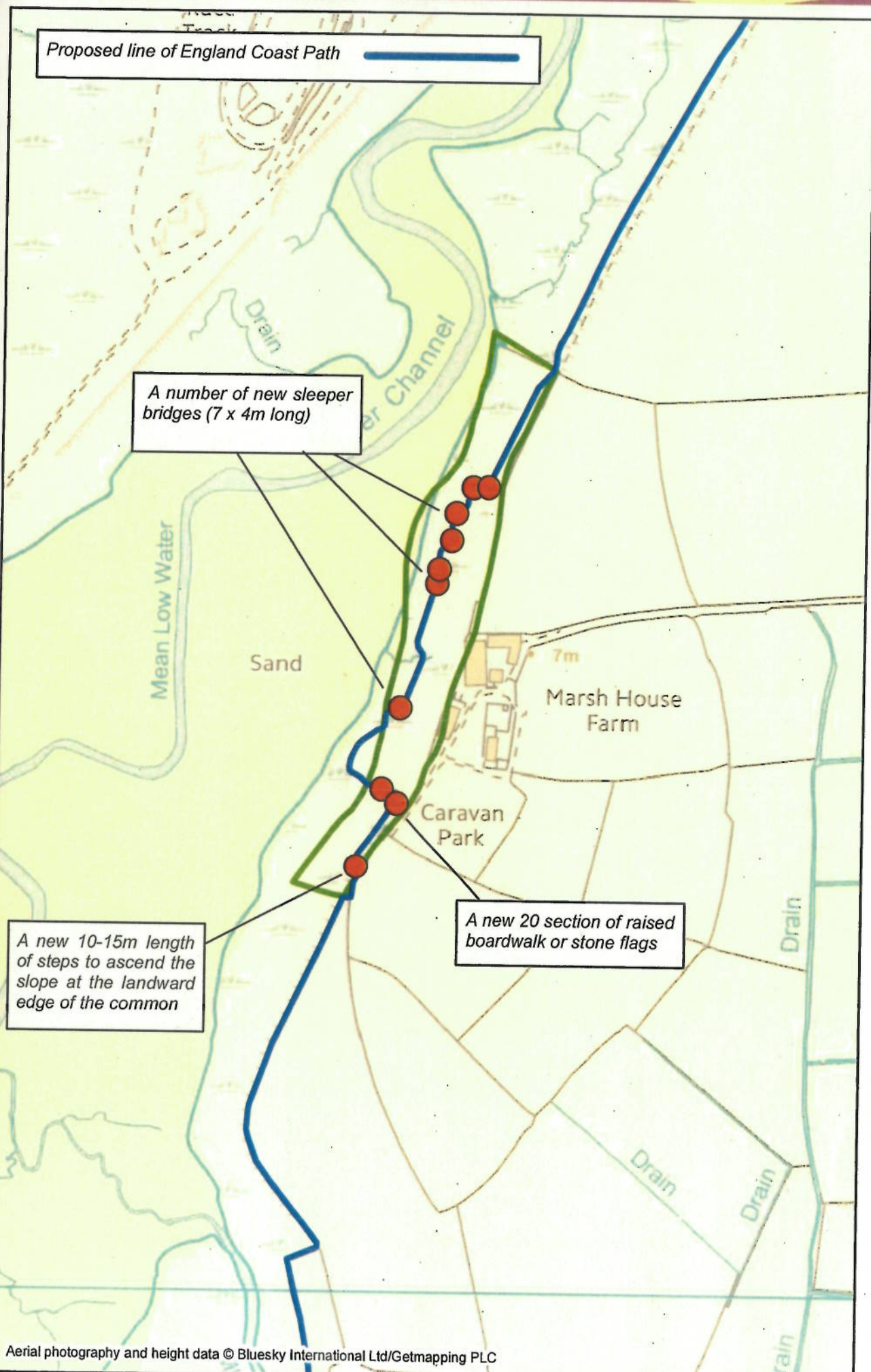
14. I conclude that the proposed works will improve access over the common and will not adversely impact the other interests set out in paragraph 6 above. Consent is therefore granted for the works subject to the condition set out in paragraph 1.

**Richard Holland**

# Map 3: CL124 Crag Bank Marsh Application site and proposed works



Date:  
May 2019



Proposed line of England Coast Path

A number of new sleeper bridges (7 x 4m long)

A new 10-15m length of steps to ascend the slope at the landward edge of the common

A new 20 section of raised boardwalk or stone flags



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