



Application Decision

by Richard Holland

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

Decision date: 22 October 2019

Application Ref: COM/3235321
Walmore Common, Gloucestershire

Register Unit No: CL 181

Commons Registration Authority: Gloucestershire County Council

- The application, dated 6 August 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 the Farming and Wildlife Advisory Group South West.
 - The works comprise a new track and reprofiling along 255 m of ditch. The new track will be 205 m long and 2.65 m wide with a hard surface of compacted type 1 aggregates and an undisturbed grass strip in the centre. A 205 m long temporary track of rubber matting may be used for residents to access properties.
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Decision

1. Consent is granted for the works in accordance with the application dated 6 August 2019 and the plan submitted with it subject to the condition that the works begin no later than 3 years from the date of this decision.
2. For the purposes of identification only the location of the works is shown outlined in red on the attached plan.

Preliminary Matters

3. I have had regard to Defra's Common Land Consents Policy Guidance¹ in determining this application, 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 guidance if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the guidance.
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, Historic England and Natural England.

¹ Common Land Consents Policy Guidance (Defra November 2015)

6. 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

7. The applicant confirms that 23 rights are registered over the common and that two horses are grazed on the common. In addition, two commoners lease their rights to graze 5 horses and 14 cattle. The applicant confirms that property owners adjacent to the common with rights of grazing support the works.
8. I note that the commoners and landowner, the Trustees of Walmore Common have been consulted about the application and have not objected. I am satisfied that there is no indication that the works will harm the interests of the landowner or those having rights over the common.

The interests of the neighbourhood and 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 applicant explains that the works are required to improve the condition of an open ditch on the common by relocating an existing track and reprofiling the ditch. The track was used by the occupants of 3 nearby properties but, because it has subsided and is badly cracked, they now drive over the grassland to reach their properties; this is damaging the ditch. The existing track is extremely close to the ditch and in order to create the space needed to carry out the re-profiling work the track needs to be relocated. A temporary track, if needed, will allow residents to access their properties while the new track is being constructed. The applicant confirms that there are formal easements to gain access to properties on the common. NE supports the application and comments that the works may improve the visitor experience by improving the habitat as well as providing a surface which is more pleasant to use.
10. I note that the OSS does not object to the application and considers that the works will not adversely impact access. I am satisfied that the works will not prevent local people from using the common in the way that they are used to and are likely to benefit all users by improving both access along the track and the condition of this part of the common. I conclude that the works may benefit the neighbourhood and will protect public rights of access.

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.

Nature conservation and conservation of the landscape

11. Walmore Common is a Site of Special Scientific Interest (SSSI) assessed as favourable unchanged which is in part because the ditch, a notified feature of the SSSI, does not support the level of aquatic life expected of the SSSI. NE comments that the re-routing of the track will benefit the common by helping halt the problem of continued traffic on the grassland and allow work on the ditch which will improve aquatic flora and associated fauna and the condition of the SSSI.
12. The applicant says that the ditch is trapezoidal in shape with little benefit for biodiversity. It is not clear from what the applicant has said why this shape is unsatisfactory but according to NE one of the reasons that the SSSI is not in favourable condition is because the sides of the ditch are very steep and are not a suitable profile for supporting aquatic plant communities. The ditch has elevated concentrations of nitrate and phosphate and lack of plant diversity; reprofiling the ditch will help address these problems. The track is a visual eyesore and its condition has resulted in encroachment. Stone from the current track, if suitable, will be used in the base of the new track and is designed to be in keeping with a traditional easement across the common. NE and OSS agree that the new track is in keeping with the common.
13. I am satisfied that the works will help better protect and manage the common by improving the track and reducing vehicular encroachment. I consider that the works are likely to both improve the visual amenity of the common and the biodiversity interests/notified feature of the SSSI. I conclude that the works will benefit nature conservation interests and enhance the landscape.

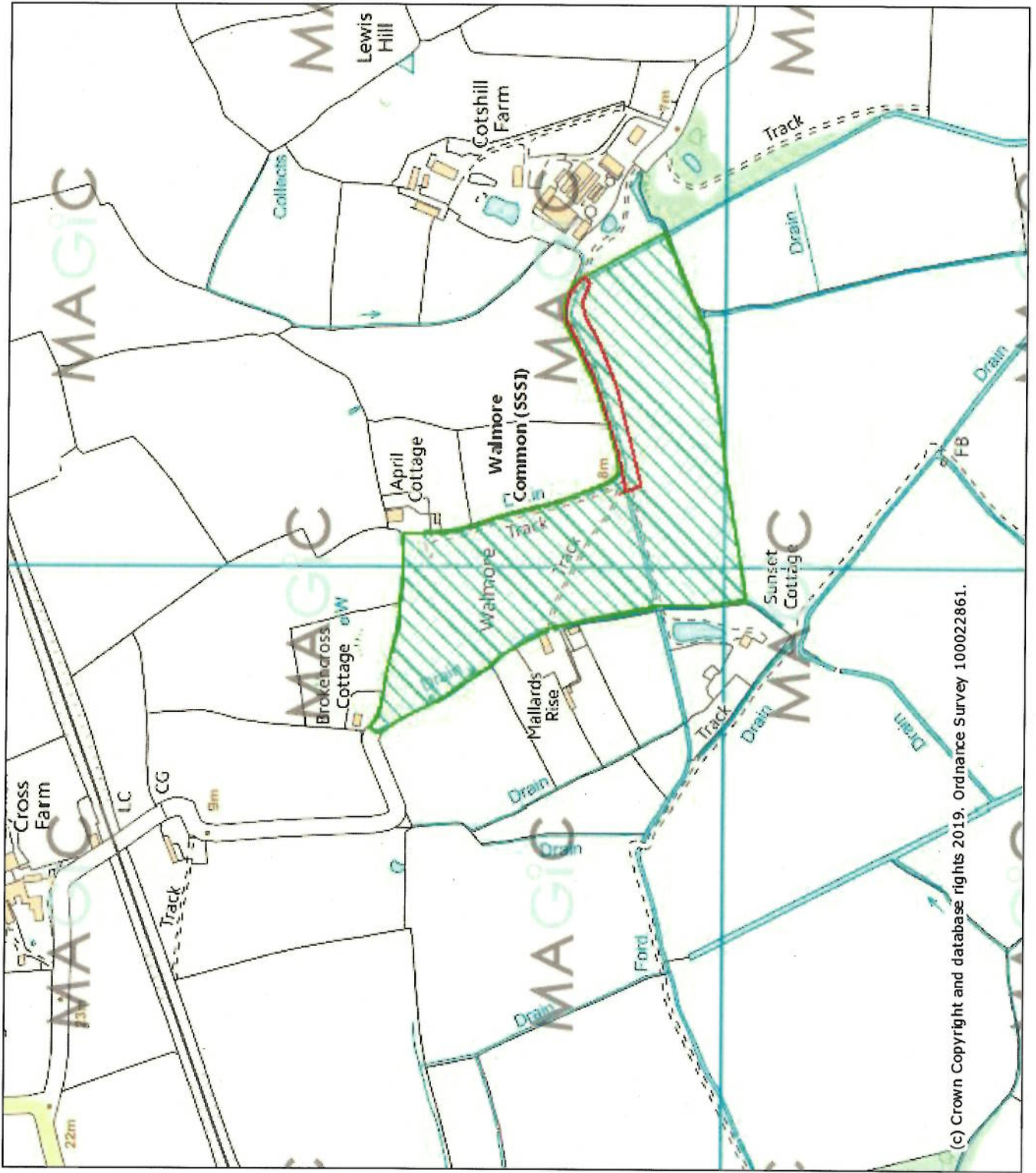
Archaeological remains and features of historic interest

14. HE confirms that the works will not have any impact on any designated heritage assets. I am satisfied that there is no evidence before me to indicate that the works will harm archaeological remains or features of historic interest.

Conclusion

15. I am satisfied that the works are likely to benefit nature and landscape conservation interests and will not harm the other interests set out in paragraph 6 above. Consent is therefore granted subject to the condition set out at paragraph 1.

Richard Holland



Legend

-  Sites of Special Scientific Interest (England)

Projection = OSGB36
xmin = 372600
ymin = 215500
xmax = 375400
ymax = 216900



Map produced by MAGiC on 6 August, 2019.
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