
Application Decision

by Richard Holland

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

Decision date: 29 October 2019

Application Ref: COM/3236962

Butts Common, West Sussex

Register Unit No: CL 109

Commons Registration Authority: West Sussex County Council.

- The application, dated 09 September 2019, is made under Section 23 of National Trust Act 1971 (the 1971 Act) for consent to carry out restricted works on common land.
 - The application is made by Kirdford Parish Council.
 - The works comprise the replacement of children's play equipment with two new swings. The works are temporary for 20 years.
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Decision

1. Consent is granted for the works in accordance with the application dated 09 September 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 October 2039.
2. For the purposes of identification only the location of the works is shown outlined in red on the attached plan.

Preliminary Matters

3. The notice refers to the replacement of wooden play equipment with swings and wooden play sculptures on 400 m². This application only concerns the swings; the wooden sculptures and log seating having been given consent in 2018 (COM/3200708).
4. I have had regard to Defra's Common Land Consents Policy¹ in determining this application under section 23 of the 1971 Act, 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 representation made by the Open Spaces Society (OSS) which does not object to the application.
7. 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);

¹ Common 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

8. The National Trust, as landowner, has been consulted and confirms that the works are 'desirable' under section 23 of the 1971 Act. There are no rights registered over the common. I am satisfied that the works will not harm the interests of those occupying the land and interests of those having rights is not at issue.

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 interfere with the way the common land is used by local people. The applicant explains that the play equipment that had been on the common since the 1950s was well used and popular with local families particularly as the common is central to the village. The common is now empty; the previous play equipment was removed from the common due to health and safety requirements. The applicant says that there is substantial support for the works, including the provision/raising of funds by the local community, although no evidence to support this assertion has been provided. The new play equipment is designed to be inclusive for all users. The works will restore what was a popular meeting point/community hub.
10. Despite the lack of evidence regarding local support, I consider it likely that the local community would welcome the provision of swings in the same way that it backed the provision of play equipment in application COM/3200708. In any case, I am satisfied that the works will improve the way the common is used by local people and will benefit the interests of the neighbourhood and will not harm public rights of access.

Nature conservation, conservation of the landscape, and archaeological remains and features of historic interest

11. The two swings consisting of a nest swing and two flat swings and a smaller toddler swing will be constructed using plain timber frames with grass lock matting safety surfacing. The works will cover an area of approximately 191 m². The applicant explains that the works are similar to those found on other National Trust sites. The total footprint of the works on the common is small and they are in keeping with the semi-rural setting of the common. I am satisfied that there is no evidence before me to indicate that the proposed works will harm nature conservation interest and conclude that the works will conserve the landscape. Historic England confirmed that it did not need to be consulted about the application. I am satisfied that there is no evidence before me to indicate that the proposed works will harm any archaeological remains or features of historic interest.

Conclusion

12. I conclude that the proposed works will benefit the local neighbourhood through the provision of additional play facilities on the common and will not 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

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.

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9/7/2019

OS Maps: online mapping and walking, running and cycling routes



<https://osmaps.ordnancesurvey.co.uk/51.03246,-0.54999,17>

□ BUTTS COMMON □ PLAY AREA