

---

# Application Decision

by **Richard Holland**

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

Decision date: 11 February 2020

---

## Application Ref: COM/3235501

### Land at Heslington known as West Moor, York

Register Unit No: CL 83

Commons Registration Authority: City of York Council

- The application, dated 5 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 Fulford Golf Club.
  - The works comprise (i) removal from the golf club car park of a golf buggy/cart store and a metal container covering an area of 60.38 m<sup>2</sup>; and (ii) erection of a replacement buggy/cart store at the same location covering an area of 90 m<sup>2</sup>. The new store to be 20m long, up to 3.5m in height and of Plastisol coated profile sheeting construction.
- 

## Decision

1. Consent is granted for the works in accordance with the application dated 5 August 2019 and the plans submitted with it, subject to the condition that the works shall begin no later than three years from the date of this decision.
2. For the purposes of identification only the location of the works is shown in red 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. Planning permission for 'replacement of buggy/trolley cart building' was granted by City of York Council on 3 April 2019 (Application Ref No. 18/00075/FUL)
5. This application has been determined solely on the basis of written evidence. I have taken account of the representations made by the Open Spaces Society (OSS).
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;

---

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

- 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 land is owned by Halifax Estates, which was consulted by the applicant and has not commented on the application. The Commons Registration Authority confirms that there is no Rights section to the register for CL 83 in its possession. However, the applicant advises that the Freeman of the City have rights to graze over the common and that the Fulford Golf Club pays an annual rent, under terms of a supplemental lease with the landlord, in lieu of the rights being exercised over the area of common occupied by the golf course. Whilst I consider it unlikely that the supplemental lease is intended to include the car park (as it is not part of the actual golf course), it is not in any case practically possible to graze over the affected land as it is hard surfaced. I therefore conclude that the works will not affect the extent to which grazing rights could be exercised, should they be resumed.

### ***The interests of the neighbourhood and protection of public rights of access, nature conservation and archaeological remains and features of historic interest***

8. The purpose of the works is to improve and extend the Golf Club's buggy/cart storage facilities. The new structure will be purpose built to allow buggies to be charged up and be more securely kept. The applicant says the works are required as an increasing number of disabled and elderly members and visitors need buggies/carts to enable them to access the golf course. 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 and is closely linked with the interests of public access. The existing use of the land for buggy/cart storage will continue, albeit over an area that is about 29m<sup>2</sup> larger. I consider that this modest increase in footprint will not harm public access and that the works are in the interests of the neighbourhood as visitors, as well as club members, will be able to use the electric charging facility. This will benefit those who, without the use of a buggy/cart, may not be able to visit and enjoy the golf course area of the common.

### ***Landscape***

9. OSS is concerned that the new structure will suburbanise the common. However, the store will be located on the hard surfaced car park, rather than a grassed area of the common, on a site already occupied by a buggy/cart store. Its visual impact will be softened by nearby tree cover, which the applicant confirms will be retained, and the roof and walls will be of coloured profile sheeting to blend in with the surroundings. I conclude that the works will not cause serious harm to the landscape.

## **Conclusion**

10. Defra's Common Land Consents Policy says consent may be appropriate where permanent buildings are intrinsically related to the enjoyment of the common, such as a cricket pavilion, lambing shed or a keeper's hut; I am satisfied that the works accord with the policy. The store will help to enhance the enjoyment of those using the common to play golf and will not unacceptably harm any of the other interests set out in paragraph 6 above. I conclude therefore that consent should be granted for the works subject to the condition set out in paragraph 1.

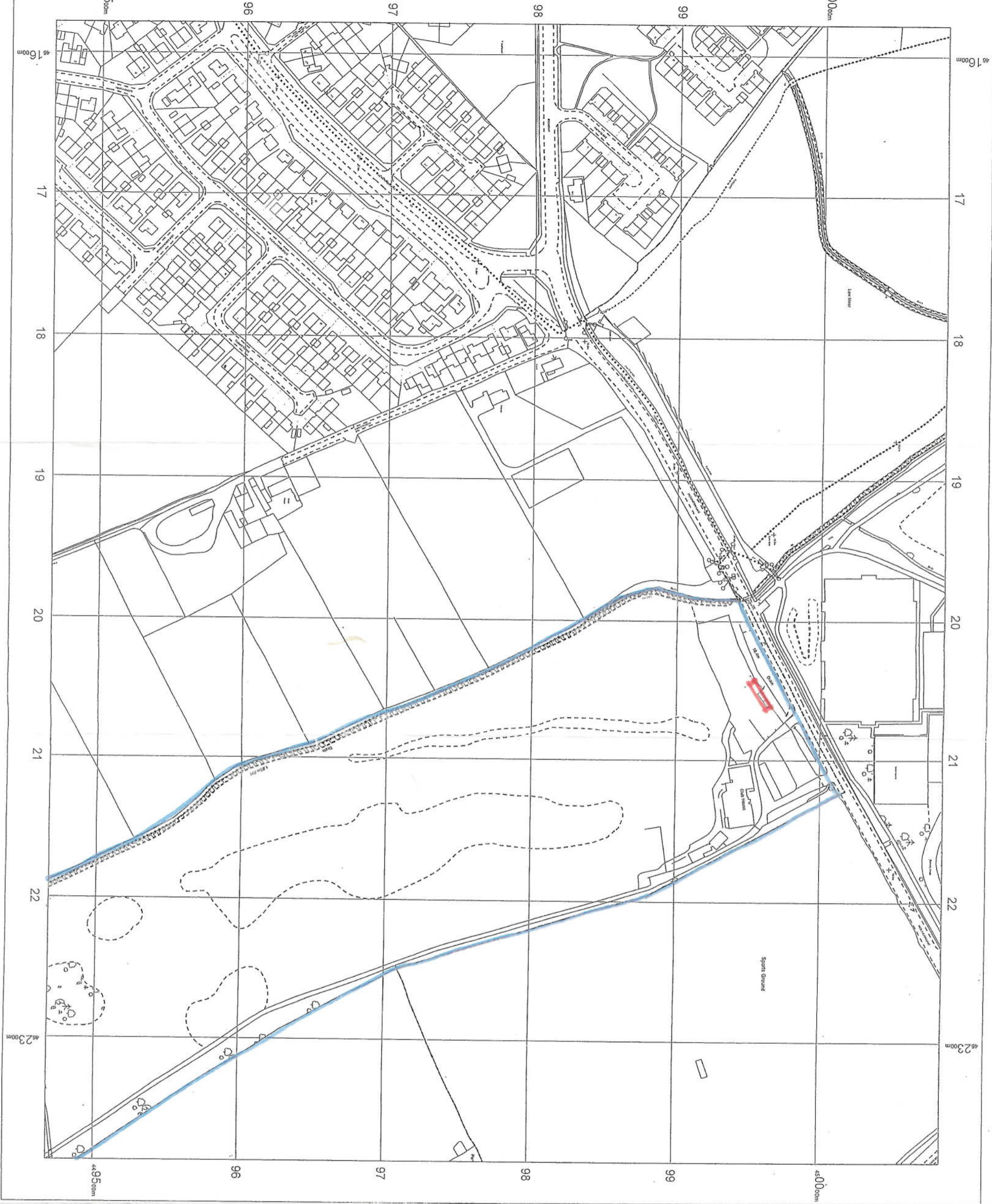
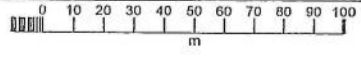
*Richard Holland*

---

<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.




1000555949



OS MasterMap 1250/2500/10000 scale  
 13 February 2016, ID: BW1-00502234  
 maps.blackwell.co.uk

1:2500 scale print at A3, Centre:  
 461982 E, 449776 N

©Crown Copyright Ordnance Survey. Licence no. 100041040



**BLACKWELL'S**  
 www.blackwellmapping.co.uk  
 TEL: 0113 245 2623  
 comments@maps.blackwell.co.uk