



## Application Decision

Site visit carried out on 2 January 2017

By **Peter Millman BA**

An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 09/01/17

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### Application Ref: COM3154237

#### Land at Snettisham Common, Norfolk

Register Unit: CL 64

Registration Authority: Norfolk County Council

- The application, dated 6 July 2016, 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 Mr Simon Bower on behalf of Snettisham Parish Council.
  - The application is for works (already completed) which comprise: Two lengths of temporary fencing, one stated to be about 20 metres long, the other stated to be about 30 metres long, both intended to ensure the safety of those using the Common, one from a significant drop into a large sand pit, the other from conflict between car parking and a picnic area.
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### Decision

1. Consent is refused.

### Preliminary Matters

2. Following advertisement of the proposal, objections or representations were received from the Open Spaces Society, Natural England, Mr and Mrs Almey, Mr Steinacker and Mrs V Thorpe, all of which I have taken into account.
  3. I carried out an unaccompanied site visit on 2 January 2017.
  4. This application has been determined on the basis of the written evidence, the comments submitted, and my own observations of the site.
  5. The retrospective application is for the erection of two lengths of fencing, one stated to be about 20 metres in length, the other about 30 metres. In fact the fence around the top of the sandpit is closer to 100 metres long, and the two separate lengths of fencing between the car parking area and the picnic tables are about 27 and 29 metres long.
  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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- (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, which by section 39(2) of the 2006 Act 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.
  - (d) any other matters considered to be relevant.
7. In determining this application I have had regard to the latest edition of Defra's Common Land Consents Policy which has been published for the guidance of both the Planning Inspectorate and applicants.

## **Assessment**

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

8. Snettisham Common is owned by Snettisham Parish Council. No rights of common exist on it. The decision to fence was taken by the Parish Council, it stated, in accordance with its overriding requirement to consider Article 2 of the Human Rights Act 1988 (the Right to Life) under the specific advice of its insurers. The Parish Council clearly considered that it was in its interests to erect fencing. Since the application, however, it has been informed that it would still be covered by insurance if it had to remove the fencing.

### ***Interest of the neighbourhood***

9. At the time of my site visit, on a bright, sunny Bank Holiday in January, there were a dozen or so cars in the parking area, and the Common appeared to be principally used by couples and families walking with dogs. It is possible that the fencing around the top of the sandpit might stop an out of control dog or child from an accident, but otherwise the fencing would be unlikely to change the way the Common is currently used.

### ***The public interest***

#### *The protection of public rights of access*

10. Neither length of fence would, it seems to me, have any significant effect on access to or over the Common as a whole. The fences between the car parking area and the picnic tables would make it more difficult for people with mobility problems to get between the two areas than, for example, a row of posts or bollards (see paragraph 17 below). Even though there is a gate in each length of fence, they do not appear to be particularly easy to open.

#### *Nature conservation*

11. It is not argued that the fencing would have any effect on nature conservation.

*Conservation of the landscape*

12. Snettisham Common lies just within the Norfolk Coastal Area of Outstanding Natural Beauty and I must therefore have regard to the purpose of conserving and enhancing its natural beauty (Countryside and Rights of Way Act 2000, Section 85). The Common is wooded, and forms an attractive south-east facing walking area on the edge of the village.
13. The opinion of the Open Spaces Society was that the fences (in particular the one above the sandpit) were an eyesore, and detracted from the unenclosed nature of the Common. The fence around the car parking area was in excess of what was needed. Natural England and other objectors made similar points.
14. The fence around the top of the sand pit consists of a row of rusty angle-iron posts to which galvanised stock netting has been tied. It is easy to get around its ends, and between the posts it is easy to push the fence down so that it can be climbed over so that it would not prevent adults or children from getting to the edge of the drop. It is, in my view, unsightly. It has the appearance of a temporary emergency fence, put up in a hurry to avert some imminent danger. Although not visible from a great distance because of the trees, its prominent position above a sand-pit where, it appears from the holes, sand martins nest, draws attention to it.
15. I consider that its purpose would be better served either by a few discreet notices on posts, such as those which appear on coastal cliff paths stating 'cliffs can kill' with a small diagram of someone falling off the edge, or possibly by a suitable post and rail fence. This would not prevent accidents, but is unlikely to be significantly less effective than what is now in place. The Parish Council considers that notices would be unsightly. I do not think that they need be, and in any event they would be less unsightly than the current fencing.
16. Cars park on the Common on a hard sandy area, next to which is an area of short, rough grass, covered in many mole hills at the time of my visit. On this grass area are two artificial wood picnic tables, with attached seats. Between the car parking area and the grass are two lengths of close boarded fence, a little less than a metre high, supported on posts. In each length of fence there is a double gate.
17. The fence is not as unsightly as the fence around the sandpit, but I agree with the comments of those objectors who thought that it was in excess of what is needed. Many of the supporting posts are already close enough together to prevent a car getting past and onto the grass even if the fence was not there. All that is needed to fulfil its function is a row of low posts or bollards spaced appropriately so that wheelchairs or mobility scooters could get through but not cars. This would be far less obtrusive than the fencing and would make it easier to access for pedestrians.

*Protection of archaeological remains and features of historic interest*

18. Although one objector argued that there was a Scheduled Ancient Monument adjacent to the Common, no details were given, and Historic England, in its comments on the application, did not mention one.

## **Conclusions**

19. Having regard to the interests set out in paragraph 6 above, I find that the adverse effect of the works on the landscape of the Common significantly outweighs any benefit to the interests of the Parish Council, particularly since it now appears that insurance cover would not be affected if the fences were removed. I conclude that it is not expedient that consent for the works should be given. For the purposes of identification only, the general locations of the fences are shown in red on the attached plan, which was provided, with its application, by the Parish Council.

*Peter Millman*

**Inspector**

