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# Application Decision

**by Richard Holland**

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

Decision date: 23 July 2018

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**Application Ref: COM/3200708**  
**Manorial Waste/Butts Common, West Sussex**

Register Unit No: CL 109

Commons Registration Authority: West Sussex County Council.

- The application, dated 16 April 2018, 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 wooden play equipment on 400 m<sup>2</sup>. 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 16 April 2018 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 no later than 20 years from the date they are carried out.
2. For the purposes of identification only the location of the works is shown outlined 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 23, 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 representation made by the Open Spaces Society (OSS).
6. 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);
  - b. the interests of the neighbourhood;

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<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 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 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 interfere with the way the common land is used by local people. The applicant explains that a play area has been on the common since the 1950s. The works are needed to replace play equipment that has been removed on health and safety grounds. The new play equipment consists of three wooden sculptures and log seating. The applicant says that log seating has been used successfully, as an alternative to fencing, in a neighbouring village to prevent unauthorised vehicular access and to deter children from running onto the nearby road.
9. The applicant has supplied a number of letters of support from local people demonstrating that the area is well used and the play area is seen as a valuable local amenity. The OSS does not object to the application, noting that the play area will take up the same area as the previous equipment.
10. I am satisfied that the works, which replace an established play area, will not interfere with the way the common is used by local people or impact on public rights of access.

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

11. I am satisfied that there is no evidence before me to indicate that the proposed works will harm nature conservation interests. The play area is situated to the north east of the common. The wooden sculptures consist of a badger set, ferret and hare and will be placed on existing concrete pads. The total footprint on the common is very small; the sculptures range from approximately 1 to 6 foot at the base. The works have been chosen to be visually sympathetic to the rural setting of the common and the log seating is intended to have the appearance of a natural boundary around the play area. The seating will also prevent unauthorised vehicles from crossing the common and causing unsightly damage to its surface. I conclude that the works will not detract from the visual amenity of the common and will conserve the landscape.

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

12. Historic England confirmed that they did not need to be notified or 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**

13. I conclude that the proposed works will not harm the other interests set out in paragraph 6 above and will benefit local people through the continued provision of play facilities on the common. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

**Richard Holland**

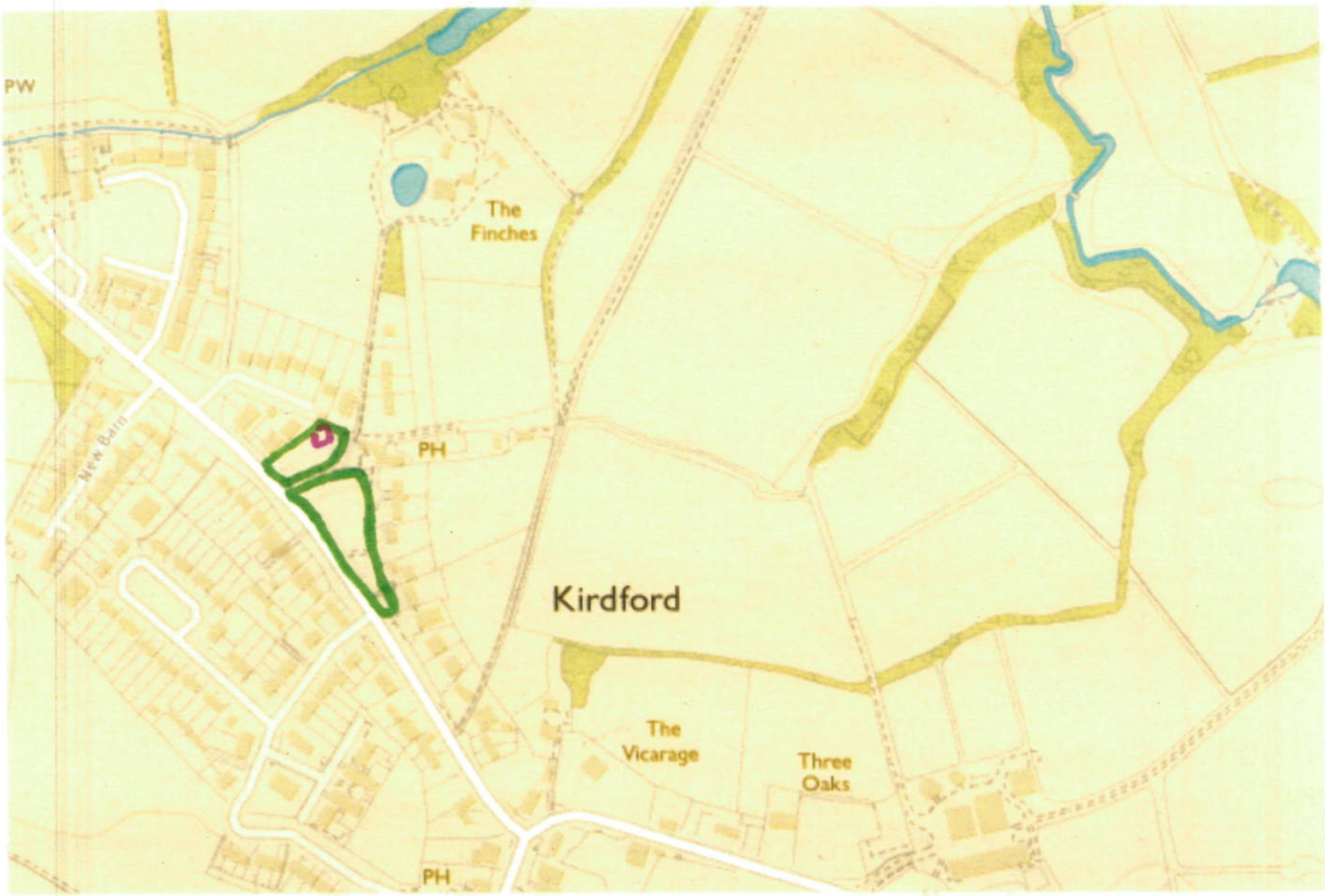
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<sup>2</sup>Section 39(2) of the 2006 Act provides that the public interest includes the public interest in; nature conservation; the conservation of the landscape; the protection of public rights of access to any area of land; and the protection of archaeological remains and features of historic interest.

OS GRID REFERENCE TQ 01651 26900

TQ 014 272

TQ 024 272



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

4/12/2018

TQ 014 265


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 BUTTS COMMON

 PLUM AREA

TQ 024 265