

# Application Decision

**by Richard Holland**

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

**Decision date: 8 January 2020**

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**Application Ref: COM/3241336**  
**Witchford Common, Cambridgeshire**

Register Unit No: CL 39

Commons Registration Authority: Cambridgeshire County Council.

- The application, dated 11 November 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 Witchford Parish Council.
  - The works comprise a timber zip wire with under grass safety matting surfacing. The works will occupy an area of 139.95 m<sup>2</sup> and will be approximately 22.5 m in length.
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## Decision

1. Consent is granted for the works in accordance with the application dated 11 November 2019 and accompanying plan, subject to the condition that the works shall 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 as red a line 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. 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 (OSS) and Historic England (HE).
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;
  - c. the public interest;<sup>2</sup> and

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

<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.

- d. any other matter considered to be relevant.

## **Reasons**

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

7. The applicant is the landowner and there are no rights registered over the common. I am satisfied that the works are of benefit to those occupying the land and interests of those having rights over the land is not at issue.

### ***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 it is responding to repeated requests from residents for a zipwire for older children and adds that the outcome of neighbourhood plan consultation undertaken in February 2018 established that there was popular support for better facilities for 5 -11 and 11 – 16-year olds in the village. The works will be located adjacent to existing play equipment already popular with children attending the nearby Witchford Village College. The applicant confirms that no fencing is proposed and the area will remain open.
9. I am satisfied that the works, by adding to well used play equipment already on the common, will improve the way the common is used for recreation and, given that the area will remain accessible to the public, will not unduly interfere with public rights of access. I conclude that the works will not adversely impact on public rights of access and are likely to benefit the interests of the neighbourhood by providing further play facilities for children in the village.

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

10. I consider that the photographs submitted by the applicant of the existing play area demonstrate that the works, which include safety matting surfacing intended to allow grass to grow through, are designed to be in keeping with the play area and village 'green space'. Natural England confirmed that it would not be making a response and there is no evidence before me to indicate that the works will harm nature conservation interests. I am satisfied that the works are in keeping with the character of the common and will conserve the landscape.

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

11. HE does not object to the application but advises that the local authority archaeological advisor is consulted. I note that the applicant has consulted Cambridgeshire County Council Archaeological Service and it has not objected to the works. 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 an additional play facility on the common and will not harm the other interests set out in paragraph 6 above. Consent is therefore granted for the works subject to the condition set out in paragraph 1.

*Richard Holland*

Parish

Label

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For details of proposed works see Appendix 1 and Appendix 2

Site of proposed works shown by —

Boundary of registered common land shown by —

