Planning Inspectorate logo

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| **Application Decision** |
| Site visit made on 4 May 2023 |
| **by Claire Tregembo BA (Hons) MIPROW** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 26 May 2023** |

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| **Application Ref: COM/3306665**  **Name of Common Milford Common**  Register Unit No.: CL20 and CL59  Registration Authority: Staffordshire County Council |
| * The application dated 31 August 2022, is made under Section 38 of the Commons Act 2006 for consent to carry out restricted works on common land. |
| * The application is made by Staffordshire County Council. |
| * The works comprise reinstatement of the existing ditch and bund boundary. |
| **Decision: Consent is granted in accordance with the revised application for Milford Common** |
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Preliminary Matters

1. The application originally included works on Brindley Heath (CL92). However, this part of the application was subsequently withdrawn as further works are being considered in connection with conservation grazing. Therefore, my decision only relates to the proposed works on Milford Common.
2. Natural England (NE) and the Open Spaces Society (the OSS) made representations to the application. Both had concerns about the works as originally proposed. Following discussions with the Applicant, the submission of further details and amended proposals, both parties now find the proposed works acceptable.
3. I made an accompanied site visit on 4 May 2023 with a representative of the Applicant.

Description of the site

1. Milford Common consists of two parcels. CL20 is located between Brocton Road, Main Road (A513), and Cannock Chase (Registered Common CL89), Milford and has a total area of 4.25 hectares. CL59 is located between The Green, Holdiford Road and Main Road (A513), Milford and has a total area of 0.81 hectares.

The Application

1. The application proposes to reinstate the existing ditches and bunds around both parcels, as shown on the plan appended to the end of this decision. Their purpose is to prevent unauthorised and inappropriate vehicular access. The bunds will be created out of the spoil from the ditches with appropriate imported soil if there is not enough. Gaps will be provided to allow access to the Common, as indicated with stars on the appended plan.
2. Originally the ditches were proposed to be 500mm deep and 600mm wide and the bunds were to be 500mm high. Following negotiations, the height and depth have been reduced to 300mm each.

The Main Issues

1. Section 38 of the Commons Act 2006 (the 2006 Act) provides that a person may apply for consent to carry out restricted works on land registered as common land. Restricted works are any that prevent or impede access over the land, including the erection of fencing; the construction of buildings and other structures; the digging of ditches, trenches, and the building of embankments; and the resurfacing of land if this consists of laying concrete, tarmacadam, coated roadstone or similar material.
2. I am required by section 39 of the 2006 Act to have regard to the following in determining the application:
3. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
4. the interests of the neighbourhood;
5. the public interest, which includes the interest in nature conservation, conservation of the landscape, protection of public rights of access and the protection of archaeological remains and features of historic interest;
6. any other matters considered to be relevant.
7. I have had regard to Defra’s Common Land Consents Policy Guidance in determining this application, which has been published for the guidance of both the Planning Inspectorate and applicants. However, every application will be considered on its own merits and a determination will depart from the guidance if it appears appropriate to do so. In such cases, the decision will explain why it has departed from this guidance.

Reasons

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

1. The Common is owned by Staffordshire County Council. The National Coal Board have claimed ownership of any coal in or under it, but the proposed works would not affect these rights. There are no other registered rights over the Common.

***The interests of the neighbourhood***

1. Unauthorised and inappropriate vehicular access onto the land has caused distress to residents through noise and anti-social behaviour. It has also resulted in rubbish being left on site and damage to the Common and perimeter trees. The ditches and bunds will help prevent vehicular access and the associated issues benefiting the local community.
2. Access points will be provided to allow access to the Common and these will be located at all existing entry points and on walked lines across it.
3. Therefore, I consider the proposed works will benefit the neighbourhood without affecting access to the Common.

***The public interest***

*Nature conservation*

1. The south-eastern boundary of CL20 abuts Cannock Chase Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC).
2. The Habitats Regulations Screening Assessment found that the proposed works would not have a negative impact on the SAC or SSSI and NE have no reason to disagree with this assessment. NE requested that seed mixes not be used on the embankment to allow natural regeneration to occur, and the Applicant has agreed to this.
3. The ditches and bunds will help prevent vehicular incursions which cause damage to the common, therefore the proposed works will maintain or improve its condition. Ditches and bunds are only proposed along the roadside and car park boundaries. No works are proposed along the SSSI and SAC boundary.
4. Therefore, I consider the proposed works will not have an adverse effect on nature conservation.

*Conservation of the landscape*

1. The Common is within Cannock Chase Area of Outstanding Natural Beauty (AONB). The AONB team do not object to the proposals and NE considers that they will have a relatively low landscape impact. Concerns were raised over the depth and height of the ditches and bunds as originally proposed. These were revised to reduce the height and depth of each to 300mm which is acceptable to NE and the OSS.
2. The existing ditches and bunds are still clearly visible around the common. In places, limited work would be needed to reinstate them to the proposed height and depth. There will be some visual impact on the landscape when the proposed works are undertaken. However, as vegetation grows over the ditches and bunds this impact will diminish. Therefore, I consider there will be a limited short-term impact on the landscape from the proposed works.

*The protection of public rights of access*

1. The Common is designated as open access land under the Countryside and Rights of Way Act 2000, therefore public access should always be available on foot. Access points are to be provided at current points of entry and on walked lines across the Common. I consider these to be sufficient to allow public access. The proposed works will not affect access to the existing public rights of way on the south side of Milford Common.
2. Therefore, I consider that the proposed works will not affect the public’s rights of access to the Common or the surrounding public rights of way network.

*Archaeological remains and features of historic interest*

1. No archaeological remains or features of historic interest have been brought to my attention. As the proposed works would reinstate existing ditches and bunds, I consider there is unlikely to be any adverse effects on any remains or features.

*Conclusions on the public interest*

1. Taking into account the above, I do not consider that the works will have any significant adverse effect on the public interest.

Conclusion

1. I have concluded above that the proposed works will not affect those occupying or having rights over the Common. The works will benefit the neighbourhood and the interests of residents, and the public will not be adversely affected.
2. Consent is therefore granted for the proposed works on both parcels of Milford Common.

Claire Tregembo

INSPECTOR

