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| **Application Decision** |
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| **by Harry Wood**  |
| **Appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 29 January 2024** |

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| **Application Ref: COM/3324356****CENTRAL PARKS, SOUTHAMPTON**Register Unit No: CL3Commons Registration Authority: Southampton City Council |
| * The application, dated 16 June 2023, 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 Southampton City Council.
* The works, which will cover an area of 2,192m², comprise:
* the resurfacing of permanent hard surfacing on the existing highway (carriageway and footway);
* the installation of permanent highway and traffic related structures including signage, lighting upgrades, dropped kerb crossings, painted road markings and traffic signals; and
* the temporary erection of works fencing for health and safety purposes for approximately 5 months.
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Decision

1. Consent is granted for the works in accordance with the application dated 16 June 2023 and accompanying plans, subject to the following conditions:
2. the works shall begin no later than three years from the date of this decision; and
3. the temporary fencing shall be removed upon completion of the works.
4. For the purposes of identification only the locations of the works are shown within the red line on the attached plan.

**Preliminary Matters**

1. I have had regard to Defra’s Common Land consents policy (Defra November 2015) 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.
2. This application has been determined solely on the basis of written evidence.
3. I have taken account of the representations made by Natural England (NE), Historic England (HE), the Open Spaces Society (OSS) and Southampton Commons and Parks Protection Society (SCAPPS).
4. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:-
5. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
6. the interests of the neighbourhood;
7. the public interest (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); and
8. any other matter considered to be relevant.

Reasons

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

1. The land is owned by the applicant, Southampton City Council (the Council). There is one right of common registered to Hampshire County Council (HCC) to dig marl over part of the land comprised in this register unit. The applicant has submitted a letter from HCC confirming that it does not intend to exercise the right. I therefore consider that the proposed works will not harm the interests of those occupying or having rights in relation to the land.

***The interests of the neighbourhood and the protection of public rights of access***

1. 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 interests of public access. The works are proposed for small parts of East Park and Palmerston Park, which form part of the busy open space known as Central Parks (the common). The Council advises that these parts are already adopted highway and, except for two small areas from which it is proposed to remove redundant traffic signs, do not form part of the green space areas of East Park and Palmerston Park.
2. The works include; restricting vehicular access on East Park Terrace between Charlotte Place and New Road (except for buses, taxis and bicycles; providing new crossing points on East Park Terrace to align with the defined paths through East Park; providing a space at the front of Solent University to act as a connector between the University and the Central Parks; relocating bus stops; making pedestrian crossing improvements at Charlotte Place; and making alterations to the junction of East Park Terrace, New Road and Pamerston Road with new traffic signals, cycle facilities and controlled pedestrian crossings.
3. The Council explains that the works are required as part of the East Park Terrace Project, which is part of a wider £57 million programme of works across the city of Southampton under the Transforming Cites Fund (TCF). The TCF programme aims to deliver a number of projects along three main corridors into, and through, Southampton City Centre to improve sustainable and active travel. It is aimed at creating a transformative improvement to journeys by bus, walking and cycling, making it easier to travel around using these modes of transport.
4. Only small sections of the common will be enclosed by temporary works fencing at any one time. Suitable, short and safe pedestrian diversions will be put in place and access to, and egress from, the common as a result of the temporary fencing will not be affected.
5. I accept that the fencing is required for health and safety purposes, is of relatively short duration (5 months) and will be removed upon completion of the works. The works will largely be restricted to the highway and I do not consider that they will interfere with the future use and enjoyment of the green part of the common. I am satisfied that the works will not harm the interests of the neighbourhood and there are benefits to the protection of public rights of access from improvements to the footways.

***Nature conservation interests and conservation of the landscape***

1. There is no evidence to suggest that the application land is subject to any statutory or local nature conservation designations. The common supports a range of European Protected bat species, which are sensitive to nocturnal light levels. The Council advises that there will be no increase to lighting levels along the corridor of the proposed works in recognition of its potential impact on wildlife. There will be no loss of trees. All works close to tree roots will be no-dig construction and cellweb root protection will be installed.
2. The area impacted by the works has no special landscape value. The works will mainly affect existing vehicular carriageways and pedestrian footways and will impact on the green area of the common only negligibly.
3. The works will allow the removal of two redundant traffic signs and for the land occupied by them to return to its natural state, which is welcomed by SCAPPS and NE. SCAPPS suggests that the removal provides an opportunity for future restoration of the vista from East Park Terrace along a horse chestnut tree lined axis towards the Cenotaph but this is outside the scope of my considerations in determining the application.
4. I conclude that the works are unlikely to harm the above interests and that the removal of two traffic signs will be of some visual improvement.

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

1. The Council considers that the proposed works would have no impact on local heritage and works would be stopped if an archaeological discovery was made on site. The relevant body would then be informed and brought onto site to investigate. HE advised that, having considered the information provided by the applicant, it did not wish to offer any comments about the proposals.
2. There is no evidence before me to indicate that the works will harm any archaeological remains and features of historic interest.

**Conclusion**

1. I conclude that the works will not harm the interests set out in paragraph 6 above. Indeed, they are likely to provide some small benefits to public access and landscape interests. Consent is therefore granted for the works subject to the conditions at paragraph 1.

Harry Wood

