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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: 10 July 2024** |
| **Application Ref: COM/3334573****Swarth Moor, North Yorkshire**Register Unit No: CL 247Commons Registration Authority: North Yorkshire County Council* The application, dated 1 December 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 Yorkshire Peat Partnership.
* The peatland restoration works comprise:
1. blocking 654m of drainage channels (grips or gullies) with peat dams;
2. installing 8 stone sediment traps and 10 timber sediment traps;
3. installing 20 coir log bunds into erosion channels and 200 coir log bunds in eroded areas;
4. Installing 800m of peat bunds in eroded areas; and
5. creating up to 3 ponds with a maximum combined area of 300m²
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**Decision**

1. Consent is granted for the works in accordance with the application dated 1 December 2023 and the plans submitted with it subject to the following conditions:
2. The works shall begin no later than 3 years from the date of this decision.

REASON: To provide certainty to users of Swarth Moor.

1. The land shall be fully reinstated within one month from the completion of the works.

REASON: To retain access for commoners, public and livestock across Swarth Moor.

1. For the purposes of identification only, the location of the proposed works is shown on the attached plan.

**Preliminary Matters**

1. I have had regard to Defra’s Common Land consents policy of 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. The common land register refers to ‘Swarthmoor’. However, the applicant has consistently referred to the common land as ‘Swarth Moor’ in the application form, supporting documents and consultation material and that is the name I use in this Application Decision.
3. This application has been determined solely on the basis of written evidence. I have taken account of the representations made by Natural England (NE), Historic England (HE) and Open Spaces Society (OSS).
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**

1. The applicant advises that drainage channels across Swarth Moor's Lagg Fen currently allow water to drain away quickly, eroding the peat soils and carrying the sediment downstream. The objective of the works is to slow water flow, increase the height of the water table and trap eroding sediment. The measures will act to restore the hydrology of the Lagg Fen, reducing sediment load downstream.

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

1. The application land is partly owned by the Maudsley family of Knight Stainford Hall, who were consulted about the proposals but did not comment. There is no evidence before me to suggest that their interests will be harmed by the proposed works. The remainder of the application land is owned by NE, which supports the proposed works.
2. The common land register for CL 247 records six rights to graze sheep over the common. The applicant advises that there are four active graziers on the common, none of which graze the application land, and one who grazes over adjoining land. All the above were consulted by the applicant, as was the land agent for the graziers. None of them commented on the proposals.
3. The applicant advises that there is utility infrastructure within the proposed works area and, on that basis, Electricity North West was consulted about the proposals. Tarmac, which operates Dry Rigg Quarry, and Helwith Bridge Fishery were also consulted as both operate within the common, although not within the application land. None of them commented.
4. There is no evidence before me to suggest that the works will harm the interests of those having rights over 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 the protection of public rights of access.

1. The application land lies within the Yorkshire Dales National Park (YDNP) and is likely to attract visitors. NE advises that a public bridleway runs along the western boundary of Swarth Moor and that the Pennine Way National Trail lies immediately to the south. In conjunction with the road from Helwith Bridge, these routes provide a well-used accessible loop around the common but the application land is not crossed by any public rights of way. NE further advises that during the winter the area of the proposed works is boggy, which naturally deters access, and that the proposed bunds would improve access underfoot in the wetter areas. OSS confirms that it has “no adverse comments to offer”.
2. Whilst there will be some impact on public access during the period of works, I consider that the interests of the neighbourhood and rights of public access will not be harmed in the longer term and that the works may improve public access on foot to some of the wetter areas.

***The public interest***

*Nature conservation*

1. Swarth Moor is a largely intact area of raised bog occupying a hollow formed by ice action. It is a designated Site of Special Scientific Interest (SSSI) and lies adjacent to the Ingleborough Complex Special Area of Conservation (SAC). The proposals form the second phase of restoration following works given Secretary of State consent in the Application Decision COM/3234315 of 14 November 2019, which were undertaken in 2022 to restore the function of the central dome of the lowland raised bog.
2. The applicant advises that restoring Swarth Moor's hydrology will increase the biodiversity of the site by promoting the growth of bog and fen plant communities and reducing the dominance of purple moor-grass (*Molinia caerulea*). Several *Odonata* species already recorded on Swarth Moor SSSI, such as the Black Darter (*Sympetrum danae*) and Common Hawker (*Aeshna juncea*), are declining significantly across their national range. These and other invertebrate species depend upon acidic bog pools as breeding habitat to survive. The proposed ponds on Swarth Moor will increase the niches available to invertebrates, further increasing the biodiversity of the site.
3. NE outlines a number of nature conservation benefits and outcomes that will arise from a reduction of the rate of water flow off the Lagg Fen area. Species that will benefit include Small Pearl Bordered Fritillary Butterfly, White Faced Darter Dragonfly and other *lepidoptera* species; ground nesting birds; Great Crested Newts; Tawny Owls; and up to five species of bats.
4. NE’s wetland specialist has visited the site and approved the aims and methodology of the plans. The relevant NE SSSI responsible officer has also made several site visits and is supportive of the restoration plan. The site awaits National Nature Reserve (NNR) designation as an extension to Ingleborough NNR and the Senior Reserve Manager is fully supportive of the plans and methodology.
5. I conclude that the proposed works are likely to bring a number of nature conservation benefits to Swarth Moor.

*Conservation of the landscape*

1. The applicant advises that peat dams and stone and timber sediment traps are designed to slow the flow of water in drainage channels to trap sediment and encourage revegetation. The eventual outcome is for the drainage channels to be fully vegetated with bog flora and so blend into the landscape. Therefore, the structures are designed to disappear into the restored bog and fen over time.
2. Similarly, peat and coir bunds are designed to promote the formation of bog pools, revegetate and blend into the naturally rough hummock-and-hollow structure of the bog and fen. The applicant suggests that, as there are already bog pools and ponds present on the site, the addition of new ponds will be in keeping with its character and I am satisfied that this is likely to be the case.
3. The YDNP Authority was consulted about the proposals but did not comment. I am satisfied that there will be no significant long term landscape impact from the works and that the natural beauty of YDNP will be conserved.

*Archaeological remains and features of historic interest*

1. HE advises that on the basis of the information received it has no comments to make. The YDNP Archaeology Service was consulted but did not comment.
2. The applicant suggests that reducing peat erosion and raising the water table will protect the archaeological record stored in the peat. However, in the absence of HE and YDNP Archaeology Service comments, I do not give this significant weight.

1. Whilst I am not satisfied that benefits to the above interests have been demonstrated, there is no evidence to suggest that those interests will be harmed by the proposed works.

***Other relevant matters***

1. The applicant advises that dry, damaged peatlands are a carbon source, whereas functioning bog is a carbon sink. Improving condition of the habitats on Swarth Moor will increase the surface roughness and water storage capacity of the site, slowing the flow of water and encouraging healthy accumulation of peat, which in turn increases carbon storage capacity. The proposed works are therefore in keeping with Defra's policies concerning peatland restoration and combatting climate change.

**Conclusion**

1. I conclude that the proposed works will benefit nature conservation interests and will, by increasing carbon storage capacity, also benefit the wider public interest. In doing so, the works will not unacceptably harm the other interests set out in paragraph 6 above and may be of some small benefit to the interests of public access. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

**Harry Wood**

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