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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: 8 November 2024** |

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| **Application Ref:** COM 3339850  **Witchford Common, Witchford, Ely, Cambridgeshire, CB6 2HY**  Register Unit Number: CL 39  Commons Registration Authority: Cambridgeshire County Council |
| * The application, dated 26 February 2024, 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:  1. The planting of an evergreen hedge to be maintained by the parish council measuring approximately 40m long. |

**Decision**

1. Consent is granted for the works in accordance with the application dated 26 February 2024 and the plans submitted with it subject to the following condition:
2. the works shall begin no later than three years from the date of this decision;

REASON: To provide certainty to users of Witchford Common.

1. For the purposes of identification only the hedge is shown in black on the attached plan.

**Preliminary Matters**

1. I have had regard to Defra’s Common Land Consents Policy Guidance (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 guidance if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the guidance.
2. This application has been determined solely on the basis of written evidence. I have taken account of the representations made by the Open Spaces Society (OSS) and Natural England (NE).
3. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:
4. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
5. the interests of the neighbourhood;
6. 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;
7. any other matter considered to be relevant.

**Reasons**

1. The purpose of the works is to improve the safety and security of the play area section of Witchford Common
2. The applicant explains that play equipment has recently been built on the common which is adjacent to a busy public carriage way. A number of local residents have asked for a fence to be built around the play area. The council is seeking consent to plant the hedge to act as a barrier that is in keeping with the current landscape of the Common.

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

1. Witchford Parish Council are the applicant and the owners of the Common. The common land register records no rights over the whole of the land known as Witchford Common.
2. I am satisfied that the applicant has carried out the required consultation and no further comments were received, and the planned works would not interfere with the interest of those occupying or having rights over the land.

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

1. The interests of the neighbourhood relate 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.
2. Witchford Common comprises of five land parcels throughout the village of Witchford. Four of these are clustered together and separated by a public carriageway. The area of land pertaining to this application is an area of rectangular shaped land with this carriage way running along the western boundary.
3. The area of the Common relating to this application is an area of green space with some trees and picnic tables present and is surrounded by residential buildings.
4. The planting of the hedge would have a minor impact on access to the common as it would introduce a new barrier between the Common and the carriageway. However, the area will still be easy to access, with the north side of the common being open with no barriers present. Additionally, there is a footway that provides access to the western side of the Common close to where the hedge will be planted.
5. Overall, I do not believe the introduction of the hedge would be an unacceptable barrier to people’s access to and across the common.
6. I am of the view that this area of common land has recreational value as an open area of green space for walking and for open air activities. The addition of the hedge would prevent these activities where it is located. However, this impact would be negligible with the majority of the Common being an open space where conducting these activities would likely be preferable.
7. NE have been consulted on the application and stated they do not believe that that the works as planned will have any adverse effects on access to the Common.
8. OSS stated that they do not have any concerns relating to this application and its effect on the Common.
9. I am of the opinion that the works will have a minimal impact on people’s ability to access the Common or to the recreational value of the Common. Furthermore, the works will likely be in the interest of those who use the Common for recreational purposes.

***The public interest***

1. As well as the public interest in the protection of public rights of access, the Guidance (November 2015) outlines the public interest in nature conservation, the conservation of the landscape and the protection of archaeological remains and features of historic interest.

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

1. NE state that the Common has no special designated landscape value and they do not anticipate the works having a significant impact on the landscape of the Common as a whole. However, NE would like to see a diverse range of plants used to create the “hedgerow” to increase the biodiversity value of the Common. NE requested that its height be maintained at 1m and its length at 40m to ensure the Common remains an open, unenclosed space.
2. The applicant in response has confirmed that they will maintain the hedge to these dimensions, but that the hedge will be comprised of “evergreen” species so it can act as an effective barrier.
3. NE have noted this and asked that the applicant include “native species such as holly or box” to increase the natural value of the Common.
4. The proposed works would introduce new permanent natural feature on to the Common with the hedge acting as a natural barrier which will be in keeping with the wider visuals of the Common. The planned works would not impact on the green areas of the Common and if maintained will not negatively impact the visuals or sightlines over the Common.
5. Overall, I am of the view that the works will not negatively impact on nature conservation interests of the Common or impact the landscape interests of the Common.

***Protection of archaeological remains and features of historic interest.***

1. The applicant has stated that there are no archaeological features within the proposed works area. Historic England and the local authority archaeological service have been consulted and did not comment.
2. There is no evidence before me to suggest that these interests will be harmed by the proposed works.

***Conclusion***

1. In this case I conclude that the works will not prevent public access to the Common and the permanent works will not seriously harm the other interests set out in paragraph 5 above. Consent for the works is therefore granted subject to the conditions set out at paragraph 1 above.

Harry Wood

Plan 1 – Location of works on the common.

