



Application Decision

by Harry Wood

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

Decision date: 8 November 2024

Application Ref: COM/3351358

Doctors Pool, Staunton on Wye, Herefordshire

Register Unit No: CL176

Commons Registration Authority: Herefordshire Council.

- The application dated 4 September 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 Staunton on Wye War Memorial Working Party (WMWP).
- The works comprise (all measurements are approximate):
 - i. relocation of a 3.605m high war memorial to a concrete base and new paved area, incorporating two wooden benches, planters and a short path covering a total area of 38.5m²; and
 - ii. installation of a row of knee-high posts set 18-24 inches apart along the roadside perimeter of Doctors Pool.

Decision

1. Consent is granted for the works in accordance with the application dated 4 September 2024 and the plans submitted with it subject to the following conditions:
 - 1) The works shall begin no later than 3 years from the date of this decision.

REASON: To provide certainty to users of Doctors Pool.
 - 2) Any common land impacted by the works shall be fully reinstated within one month from the completion of the works (note that this does not apply to any physical changes or permanent features introduced as part of the works for which consent is granted).

REASON: To retain access for the public over Doctors Pool.
2. For the purposes of identification only, the location of the proposed works is shown edged in red on the attached plan.

Preliminary Matters

3. I have had regard to Defra's Common Land consents policy of November 2015 (the Defra policy) 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. The application has been determined solely on the basis of written evidence. I have taken account of representations made by Natural England (NE) and Open Spaces Society (OSS).
5. I am required by section 39 of the 2006 Act 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. (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
 - d. any other matter considered to be relevant.

Reasons

6. WMWP explains that the war memorial (the memorial) currently stands at the parish boundary on a corner of the A438 road. The site is 1km away from the centre of the village and is considered to be a dangerous and unsuitable location for the memorial. The proposal will move the memorial to a new central location that is more suited to the layout of the village.

The interests of those occupying or having rights over the land

7. WMWP confirms that it is a fully constituted sub-committee of Staunton on Wye Parish Council (the Parish Council), which owns the land. WMWP are, in effect, representing the Parish Council in this matter. It follows that the proposals are in the landowner's interests.
8. The common land register for register unit CL176 records no rights of common.
9. There is no evidence before me to suggest that the proposed works will harm the interests of those occupying the land and rights of common are not at issue.

The interests of the neighbourhood and public rights of access

10. The interests of the neighbourhood test relates to whether the works will impact on the way the common land is used by local people and is closely linked with interests of public access on foot.
11. Doctors Pool (the common) is a 187m² area of roadside grassed verge in the centre of Staunton on Wye. The common land register describes it as "now drained and filled in", indicating that it was once the site of a pool or pond. WMWP advises that there is no bench to make the common a stopping point and that the area is too small for any "recreational activities". I therefore consider that any recreational use of it is likely to be limited to general access and dog walking.
12. The works area will take up approximately 21% of the common, although this includes a paved area around the memorial, a path and two benches, which will remain available to public access. The remaining area of common will continue to be grassed and be available for whatever informal recreational use it may currently serve. The memorial itself will take up a footprint of less than 1m².

13. WMWP believes that the common will be a safer location for people to visit the memorial than the current site, which is on the outskirts of the village at the junction of two roads with no footway. I agree that the common would be a much safer and more convenient place for memorial visitors and also for any public gatherings (on Armistice Day, for example).
14. WMWP further believes that the memorial, along with the planters and benches, will make the common a social space for the whole community and I consider that this is likely to be so. Disabled access over the common will be improved by the laying of the path, which will make it more accessible to all.
15. The row of bollards proposed to be installed along the roadside is to prevent vehicles encroaching onto the common when parking. It will not be a fence as there will be no rope or chain linking the posts and anyone wishing to access the common will be able to do so through the gaps.
16. I conclude that the works will benefit the interests of the neighbourhood by bringing a long-standing local community feature into the centre of the village and I am satisfied that public rights of access over the common will not be harmed.

The public interest

Nature conservation

17. The land is not subject to any statutory designations for nature conservation. NE advises that, from the information available, it does not anticipate that the works will have any likely significant effects on the overall biodiversity of the common. I am satisfied that nature conservation interests are unlikely to be harmed by the works.

Conservation of the landscape

18. The land has no particular landscape designation. The view from the road is one of an informal grassed area against a hedgerow backdrop.
19. The memorial is made of local stone, as will be the paved area and path, and I consider they will together form a feature suitable for a village setting. WMWP advises that the posts are likely to be metal, in the interests of durability, and will be spaced to allow lawnmower access to maintain the grassed area. Whilst metal posts may not be entirely in keeping with the other materials, I am satisfied that they will not be a dominant feature and that they will ensure there is no unsightly damage to the grassed and paved areas by vehicle encroachment for parking.
20. I am satisfied that the proposed works will not be harmful to landscape interests.

Archaeological remains and features of historic interest

21. Historic England and the local authority Archaeology Service were consulted about the application but neither commented. WMWP advises that the memorial is a Scheduled Monument and that the necessary separate permission to relocate it is being sought.
22. There is no evidence before me to suggest that the proposed works will harm the above interests.

Other matters

23. OSS points out that whilst ownership of the land was vested in the Parish Council following a Commons Commissioner hearing on 27 January 1976, it appears that the ownership is yet to be registered with HM Land Registry. OSS also suggests that two communications cabinets installed on the common, as identified on the attached plan as “Gigaclear boxes”, will visually detract from the memorial and questions whether the Parish Council gave the necessary permissions for them to be placed there. Whilst these points may be well made, they are a matter for the Parish Council and are not matters to be considered in determining this application.

Conclusion

24. I conclude that the works will benefit the neighbourhood by relocating an historic monument of local interest to the centre of the village and making it a focal point for the community. I further conclude that the relocation is unlikely to harm the other interests set out in paragraph 5 above. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

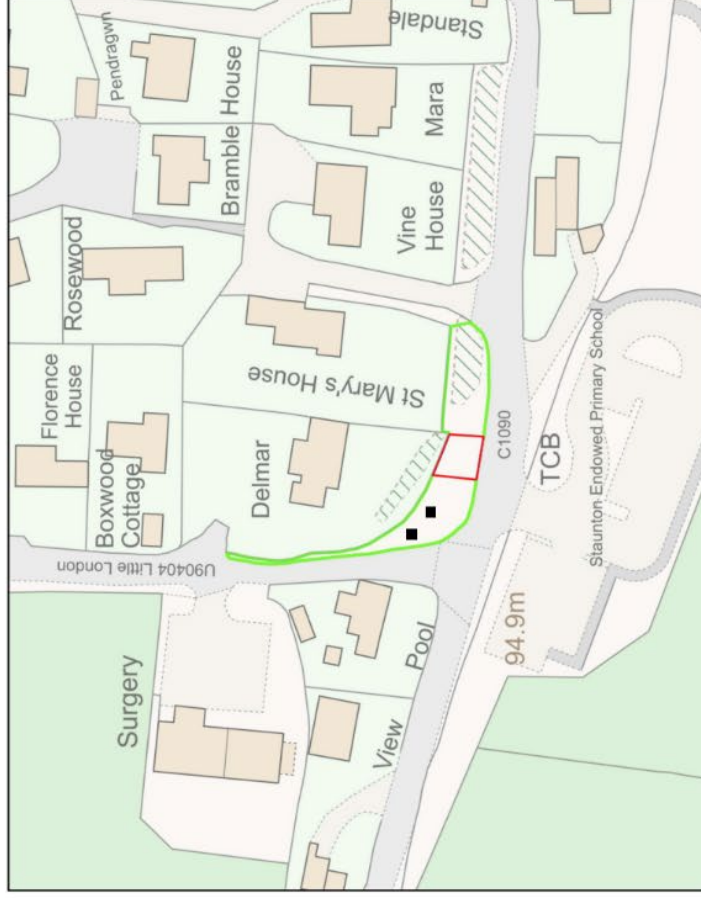
Harry Wood

Location Plan

Site Address: Easting: 336258 Northing: 245160

Date Produced: 12-Jun-2024

Scale: 1:1250 @A4



Legend:

■ = Gigaclear boxes



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