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| **Application Decision** |
| Site visit made on 29 October 2024­ |
| **by David Wyborn BSc (Hons) MPhil MRTPI** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 15 January 2025** |

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| **Application Ref: COM/3334560****Land at Southampton Common**Register Unit No: CL1Commons Registration Authority: Southampton City Council |
| * The application, dated 1 December 2023, is made under section 38 of the Commons Act 2006 for consent to carry out restricted works on common land.
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| * The application is made by Adrian Noviss of Southampton City Council on behalf of Southampton City Council to construct works on common land.
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| * The application works are described as:

(i) The resurfacing of existing tarmacadam hard surfacing over the existing width of two sections of Lovers’ Walk with replacement tarmacadam hard surfacing; (ii) The widening of the existing path along the same two sections with tarmacadam hard surfacing; (iii) Replacing the existing compacted gravel path along a third section of the path with tarmacadam hard surfacing (with retrospective consent sought for earlier works to replace a previous hoggin and tarmacadam surface with the compacted gravel along this section); (iv) The reinstatement and repair of the grassed verges alongside all three sections of Lovers’ Walk and thereafter allowing them to re-establish; (v) The installation of cycle speed calming measures comprising bollards, bunds and the installation of appropriate signage along Lovers’ Walk; (vi) The removal of redundant hardstanding areas from various locations in The Common and reinstatement to grass; and (vii) The temporary erection of fencing for health and safety purposes to facilitate elements (i) to (vi) above. |
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Decision

1. Consent is granted for the proposed works so far as they relate to the common land, in accordance with the application dated 1 December 2023 and the plans submitted with it, subject to the condition that the works shall begin no later than 3 years from the date of this decision, and to the following conditions:
2. No works hereby consented shall take place within the SSSI until the SSSI Assent process has been formally completed with Natural England.
3. The fencing hereby consented shall only be erected on a temporary basis while the works take place along that section of the route, and shall be removed as soon as practically possible on the completion of that section of the access works.

Preliminary Matters, Background and Application

1. Southampton Common (the Common) is a large area of about 326 acres of open space surrounded by the city area of Southampton. It includes substantial areas of open space, woodland and water features. There are a series of tarmacadam surfaces providing opportunities to walk and cycle through and around the Common. The evidence indicates that the Common is well used and an important local recreational resource. The largest section of the Common, to the west of the A33 (The Avenue), is designated as a Site of Special Scientific Interest (SSSI).
2. The works proposed in this application predominantly seek to upgrade a route located towards the eastern boundary of the Common to provide improved cycle and pedestrian use. The route, known as Lovers’ Walk, is a north-south largely tarmacadam off-road route from Burgess Road in the north to Westwood Road in the south, with (outside the application proposal) the intervening road section of Highfield Road. Works to three distinctive sections are detailed in the application.
3. In terms of the details, the proposal for the northern, 635m section, from Burgess Road to Highfield Avenue (Section 1), is to resurface this 2m-3m section of tarmacadam foot and cycle path and increase it to a width of about 3.5m. The increased width would still provide for a gently curving route and four speed calming measures would be introduced along its length. These speed calming measures would include a tactile strip of different material, grass bunds either side, bollards and signage to seek to slow cyclists. This section of the Lovers’ Walk is close to some of the entrances to the University of Southampton main Highfield campus site.
4. The proposal for the 554m section of the tarmacadam route from Highfield Road to Winn Road (Section 2), which presently varies in width between about 1.3m and 2m, would include it being resurfaced and increased in width to about 2.5m. It would continue to be used for access by pedestrians and cyclists. This section would also have speed calming measures with tactile strips but to a simpler design than within Section 1.
5. The 126m section from Winn Road to Westwood Road (Section 3) (in terms of accuracy this section is south of Lovers’ Walk but for the purposes of general description it is included as part of the route) has had a hoggin surface already replaced with a compacted gravel surface. This application seeks to provide a tarmacadam surface to the present 3m width of the gravel surface. This is presently a joint cycle and pedestrian route. This present route connects to the cycle/foot path to the south, which is outside the application site.
6. The increase in the hard surface area from the widened routes would amount to about 1,422sqm, comprising 1,111sqm for the combined widening along Sections 1 and 2, and a net increase of 311sqm for the surface within Section 3.
7. Also, as part of the proposal there are sections of hardstanding which are sought to be removed and the land returned to grass. These include 143sqm adjoining the Section 3 route (retrospective), 14sqm at the junction with Oakmount Avenue, 200sqm of foundations of demolished changing rooms and 111sqm of tarmacadam cricket strips both centrally within the Common, and 52sqm of the path to a demolished toilet block in the north west corner of the Common. The hard surfaces to be removed total 520sqm. Consequently, when considered as a whole across the Common, the net increase in hard surface would be about 902sqm.
8. Temporary fencing is proposed to be erected around those sections of Lovers’ Walk when the works take place. It is anticipated that the fencing in each case would be in place for about 16 weeks.
9. The applicant, Southampton City Council (the Council) has also proposed that two areas, a section of land immediately adjoining the Common and alongside Burgess Road in the north west and a section of land to the south east on the opposite side of Northlands Road and adjoining another registered common, be dedicated and registered as a town or village green. These areas would provide a total of 1,083sqm of additional land that would be registered.
10. Section 38 of the Commons Act 2006 (the 2006 Act) prohibits restricted works on common land unless consent is obtained. Restricted works include works for resurfacing of land, including the laying of concrete, tarmacadam, coated roadstone or similar material, other than the repair of an existing surface of the same material. The works, therefore, to resurface the tarmacadam sections of Lovers’ Walk as specified in (i) in the banner heading do not require consent, but the sections where the route is to be widened do. In terms of the other works in the banner heading, the reinstatement and refurbishment of the grassed verges, and the removal of the redundant hardstandings, are also not works that require consent. The applicant has explained that all the works are listed so that the complete scheme can be seen and approved as sought.
11. I undertook an unaccompanied site visit to view the site and surroundings on 28 October and an accompanied visit on 29 October. At the accompanied visit, I was joined by Mr Greg Churcher (applicant), Mr Stephen Edwards, Ms Angela Cotton, Ms Lyn Brayshaw, Ms Liz Harris (University Students Union), Mr Graham Linecar (Southampton Commons and Parks Protection Society), Mr Simon Hill and Cllr Katherine Barbour. The visit allowed those present to highlight the proposed works on the ground and point out various features, but the merits of the scheme were not discussed.

**Main Issues**

1. I am required by section 39 of the 2006 Act to have regard to the following in determining this application.
2. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it):
3. the interests of the neighbourhood:
4. the public interest (which includes the 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
5. any other matter considered to be relevant.
6. Section 39(3) of the 2006 Act provides that consent may be given in relation to all or parts of the proposed works and subject to such modifications and conditions relating to the proposed works as are thought fit.
7. Defra’s Common Land Consents Policy (the Consents Policy), published in November 2015, sets out the policy objectives for protecting common land and the approach when considering applications for works on common land. I will have regard to this policy document in my considerations.

Reasons

***Representations and Objections***

1. There has been a range of representations for, neutral and against. In terms of those supporting the proposal, thirteen individuals have written. One supporting person comments that they regularly use Lovers’ Walk both as a pedestrian and cyclist, and in its current state it is far too narrow (i.e. near the University of Southampton) to support safe shared use by the significant number of regular users, especially at peak times.
2. The Open Spaces Society (OSS) has commented that the OSS was consulted on the Council’s plans in 2023, and remains content with what is proposed. The works in the opinion of the OSS, assist in the enjoyment of the Common and it accepts that some modest widening of the existing path is necessary in order to accommodate both walkers and cyclists.
3. The OSS notes that an option to improve cycling facilities along The Avenue already has been explored, trialled, and to some extent adopted, and is satisfied that the proposed works on the Common are necessary, in the light of what has been done and tested along The Avenue.
4. The OSS welcomes the proposal to register additional areas of land as town or village green to add to the overall area of protected common to substitute for the additional hard surfaced areas of Lovers’ Walk.
5. The University of Southampton has commented that it welcomes the application being made by the Council to continue the strategic cycle network, with associated improvements to surfaces on Lovers’ Walk. The University feel these proposals clearly reflect the Council’s stated objectives to encourage and support walking and cycling, and are a proportionate reaction to existing levels of use along this route.
6. The University response confirms that it is supportive of any proposals that would improve safety for pedestrians and cyclists accessing the Common and surrounding roads, and any improvements to routes that would make the Common more accessible. It considers itself to be a key stakeholder and has met with Council Officers to discuss routes that connect with the campuses as the University continue to actively encourage walking and cycling by its staff and students, as part of its reaction to air quality concerns and broader climate mitigation plans relating to transport behaviour.
7. The University also explain that Lovers’ Walk represents an important pedestrian and cycle connection between the University’s Highfield and Avenue campuses, the University’s residential sites at Glen Eyre and Highfield Halls, and a direct, safe link to the city centre. The declining condition of the route has been a topic of extensive discussion and concern over recent years and the University comment that it is pleased to see these proposals come forward.
8. In terms of objections, detailed comments have been received from the Southampton Commons and Parks Protection Society (SCAPPS). These have been made in various submissions, one following the applicant’s response to the SCAPPS objections. SCAPPS object to the full extent of the proposed works because of the adverse impact on landscape character and appearance, and on nature conservation. It is explained that repairs are needed but widening is unnecessary and would not increase public enjoyment of a much-used semi-natural green space. The case is made that many of the problems it is claimed the proposed works would resolve are a consequence of long-term erratic and inadequate maintenance. This includes broken, damaged and poorly ‘patched’ surfaces, puddling and muddy edges together with non-existent or damaged and unmaintained surface-water drainage, and failure to keep margins level with the path and clear of fallen wood and encroaching undergrowth.
9. SCAPPS considers that the Council’s justification for the works to upgrade Lovers’ Walk is muddled and conflicted by the background to the case. In particular, SCAPPS highlights the City’s Cycle Policy document which acknowledges and accepts paths in parks (and so on the Common) are unsuited for fast, through-route cycling and it describes them as Greenways, suitable only for slow speeds, and where recreational use has priority. SCAPPS argues that the approach should be to provide identified, safe and convenient alternative routes for through journey cyclists and, thereby, the situation becomes self-regulating by allowing through-journey cyclists to avoid Lovers’ Walk and choose alternative routes.
10. It is SCAPPS’s submission that the Council has failed to adequately identify and assess alternatives to widening Lovers’ Walk. It argues that the present width is adequate for the level of use providing the surface is repaired and drainage improved, with regular maintenance to keep path margins level and clear of encroaching undergrowth.
11. Along sections of the route, SCAPPS argues there are alternatives for cyclists such as along Furzedown Road, which is a residential road with no through traffic, and there are options for roads for cyclists within the University campus. It is also possible to choose a series of other roads when heading towards the city centre as alternatives. SCAPPS, consequently, concludes that there are other ways of providing for through-route cyclists at peak times without widening Lovers’ Walk and a wider path is likely to encourage some cyclists to go faster, exacerbating, not easing, the discomfort of some pedestrians (especially less-mobile or hearing-impaired).
12. In terms of the conservation of the landscape, SCAPPS consider that the application shows inadequate consideration of the landscape. It argues that the Common is an extraordinary and much-valued large area of green space in the heart of a major city, with much remaining as a natural and semi-natural landscape giving people the opportunity, close to homes in a dense urban area, to have the experience of being in natural surroundings. It is argued that the landscape character is fragile and would be easily damaged by the urbanising impact of more tarmac and a wider path in this location. The installation of the cycle speed calming measures, including bollards is another example of the urbanising impact and SCAPPS argues it is not satisfied by the evidence that this would have the objective of slowing cyclists along these routes.
13. SCAPPS further makes the case that the small and scattered hard-surface removal would in no way compensate for damage to landscape character and appearance from the additional tarmacadam to widen the path, installation of speed-calming posts, bunds and extra signs. Furthermore, it is argued that the offer to register the additional green space is merely a paper exercise and SCAPPS is sceptical, because of previous history, as to whether the necessary registration would take place.
14. The Southampton University Students’ Union (SUSU) has reported that it consulted its students and they were unanimously not in favour and, therefore, SUSU objects to the application. This response comments that the students appreciate that this path is well used but not to the extent that it is detrimental to the current experience and enjoyment of walking and/or cycling along it. The level of foot and cycle traffic on Lovers’ Walk has not been raised previously as a concern by students to SUSU. Students regularly using Lovers’ Walk to travel between the University’s Highfield campus and Avenue campus have stated that part of the appeal of the existing path, particularly the stretch marked Section 1 in the application, is that it feels situated within a tranquil, semi-natural setting. The proposed works will create a wider ‘urbanised’ path and detract from the surroundings.
15. The response from SUSU raises other details, including concerns with loss of biodiversity with the sealing of the soil with tarmacadam and that it is difficult to fathom how Biodiversity Net Gain could be achieved.
16. SUSU comment that those students consulted, questioned the need for this proposal given the upgrades that have already been completed on The Avenue as part of the creation of Northern Cycle Freeway (Chandler's Ford to Southampton Corridor) and many will also continue using other quieter residential roads in Highfield and Portswood to travel on foot, by bike and other micromobility modes of transport between the University’s campuses and The Avenue and the City Centre.
17. A local resident, Mr Simon Hill MRTPI, has written two main submissions, with appendices, setting out comprehensive and detailed objections to the application. In summary, Mr Hill generally endorses the representations from SCAPPS relating to the lack of justification and the harm the application would cause, but differs from their position as it is argued that sections of Lovers’ Walk, (Blenheim Avenue to Oakmount Avenue, and Highfield Avenue to Salisbury Road) should be pedestrian only.
18. Mr Hill accepts that some improvement to the sections between Westwood and Winn Roads, Oakmount Avenue and Highfield Road, and Salisbury and Burgess Roads, are required as these need to accommodate cyclists as well as pedestrians because there is no alternative cycle route for these sections. It is explained that the first two also have open land at the side which allows for run off areas for avoiding collisions/giving a wide berth when moving fast or when the route is congested. The third section could be altered to allow full separation of cycle and pedestrian paths.
19. Mr Hill objects to the detail of the Council proposal for Section 2, between Oakmount Avenue and Highfield Road, where movements are less than on the Winn/Westward Road section. He suggests an improvement by a modest increase of the width of the tarmac, which is presently under 1m, to 1.5m, supplemented with a gravel shoulder of 0.5 metres on the west side.
20. Mr Hill’s objection to any widening and straightening of the tarmacadam path on the other parts of Lovers’ Walk is because of the adverse urbanising effect on its predominantly rural character and the faster cycle speeds that would result, and which would exacerbate conflict with pedestrians, which is already unacceptable.
21. Mr Hill sets out in detail his concerns about pedestrian and cycle conflict which is explained is borne from 40 years of experience of being a local resident. It is said that those with a mental or physical disability are particularly susceptible to the adverse effects of inconsiderate cyclists on shared routes. It is argued that the application proposal would promote the interests of cyclists over the interests of pedestrians to their detriment and safety, notwithstanding that there are many more pedestrians than cyclists.
22. In particular, with the Blenheim Avenue to Oakmount Avenue section, much of the path is within a narrow open corridor between vegetation and has a predominant rural and intimate character notwithstanding the residential boundaries on one side. Mr Hill argues the character would be significantly urbanised by the proposals for widening and straightening. This would also facilitate faster cycle speeds and the resulting conflict with pedestrians would be unacceptable. It is argued that this conflict is being compounded by the steady increase in electric bicycles and scooters that are both heavier and faster than conventional bicycles.
23. With the section Highfield Avenue to Burgess Road, this is more heavily used by pedestrians, particularly between the steps to the University and the Highfield Road crossing. It is argued that shared use with cyclists is incompatible and widening would not in itself remove the conflict which Mr Hill explains he has witnessed.
24. The submission explains the alternative options of using other local roads for cyclists, including the University service road to Salisbury Road. It is argued that this should form part of a comprehensive approach agreed with the University and, alternatively there are legislative powers to create a cycleway.
25. It is also argued that Furzedown Road provides a real alternative for the cycle route along the parallel section of Lovers’ Walk, and this would operate in the same way as Highfield Road.
26. Mr Hill also makes the case that, while some of the cyclists using the Lovers’ Walk route are recreational cyclists, most are transit cyclists, for which the Common offers a more direct, safer and convenient route for getting between origins and destinations that are often well outside the Common.
27. It is said that there has been no determined consideration of alternatives to the development of the Common. Mr Hill highlights other application decisions where consent has not been granted because the issue of alternatives have not been adequately investigated.

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

1. The Register identifies that there is no one with common rights on the land. Consequently, there is no one with rights of common, including grazing rights, that would be affected by the proposal.

***The interests of the neighbourhood***

1. There is no definition of the concept of “neighbourhood” within the terms of the 2006 Act. However, in general terms works should only be permitted on common land if they maintain or improve the condition of the common, or where they confer some wider public benefit and are either temporary in duration or have no significant or lasting impact (paragraph 3.2 of the Consents Policy).
2. In this case, the Common is used by a wide range of local residents for recreation purposes and by those moving through the Common between locations, including by those attending the University. I consider that these groups come together to form the predominant neighbourhood whose interests need to be considered.
3. The Lovers’ Walk route is well used and is available for both walkers and cyclists. It is the interaction of these two groups, and whether the proposed works would be appropriate and confer some wider public benefit, that form the centre of one of the main issues in this application. The consideration of the effect of the proposal on the interests of the neighbourhood is closely related to the considerations of public access which is a heading below.
4. In terms of Section 3, this part of the route is close to The Avenue and connected to the mix of existing routes to the south and those that follow the road to the north. This section, with its compacted gravel surface, looks and operates out of kilter with the tarmacadam surfaces for cyclists and walkers on the adjoining routes. The changes to Section 3 would be in the best interests of walkers and cyclists in providing a more amenable surface finish to accommodate their needs.
5. Section 2 of Lovers’ Walk extends from the top end of Section 3 and has a tarmacadam surface finish. It is reasonably narrow in places and I could see at my site visit, and envisage at other times, that when cyclists approach and pass walkers, these users find that the tarmacadam route is quite narrow. I can also appreciate that walkers could feel intimidated by approaching cyclists when there is, at times, limited space to stand back or insufficient width to pass each other because of adjoining foliage.
6. I appreciate the representations that argue that if the route was properly and regularly maintained then the undergrowth that has encroached in places across the surface would be removed and the finish would be in a better repair. That would certainly help, but I consider that the Section 2 route is generally not sufficient in width to comfortably accommodate walkers and cyclists, both of which are permitted along this route. There can also be issues when two groups of walkers, or walkers and runners, meet and need to pass. I saw evidence in places of the grass being worn to the side of the tarmacadam surface because walkers/runners/cyclists are required to use the unsurfaced section alongside the tarmacadam route. This creates a muddy surface to the sides in places. While some of the lack of undergrowth would be due to the canopy of overhanging trees and bushes, it also demonstrates that the width of Section 2 of Lovers’ Walk is often not sufficient for its combination of users.
7. I consider that the widening of the tarmacadam route along Section 2 of Lovers’ Walk to 2.5m would assist all users on most occasions. Making the surface wider may encourage some cyclists to move more swiftly, however, the extra width has been designed so that the route still meanders and, in addition, in places speed calming measures would be introduced. These physical measures would interrupt the smooth flow of the tarmacadam and I consider that they would be effective features both physically and psychologically to slow cyclists and, therefore, reduce the potential conflict with walkers. With the level of use along this section, which is less than Section 1, I consider that the proposals are a reasonable and sensible compromise that aids the use of this section of Lovers’ Walk for all users. In these respects, the works would be in the wider public interest.
8. Section 1 of Lovers’ Walk is the closest section to the adjoining University campus. It is used by local residents and through travellers, both walkers and cyclists, and, in particular, the evidence and my observations indicate that it is very well used by students attending the nearby campus. The paths, from the built up area to the north, from the sections of Lovers’ Walk to the south and from the Common to the very broadly west, converge in this area.
9. There are notable sections where a route has been worn alongside the existing tarmacadam route, including where I was able to see cycle tracks in the mud. In many sections, I consider that the width is generally insufficient to comfortably accommodate the mix and number of walkers and cyclists, especially at peak times, and this leads to some conflicts and frustration for users.
10. The proposal would increase the width of the route to about 3.5m. In some places this would be a quite sizeable increase in the width and related hard surface area. However, as noted, this is the busiest section of the Lovers’ Walk route and I consider that the increase in width is justified and would be appropriate to provide space for cyclists to pass walkers, reducing the present conflicts between users.
11. As with the comments in relation to Section 2, this may enable some cyclists to speed up and this could lead to an added risk from heavier bikes, including e-bikes, to walkers. While it is expected that cyclists will cycle with care and respect, this may not always be the case and there is a difference in approaching speed between walkers and cyclists. This difference in approaching speed already occurs at the moment, to some extent, and the width of the surface does not aid the interaction between users. The increase to 3.5m width would provide more space for the various users to pass more safely.
12. As with Section 2, the arrangement of the widening would enable the route to meander and there would be sections where speed calming measures would be introduced. These speed calming measures would be more substantial when compared with those within Section 2 and each would extend to about 7m in length, with bunds on either side and bollards and surface changes within each area. I consider that these speed calming measures would have a physical and psychological benefit in slowing the speed of cyclists and, thereby, would help to assist the safety of walkers.
13. Taken together for Section 1, this package of measures would provide an acceptable approach to better accommodating the needs of walkers and cyclists and thereby providing a wider public benefit.
14. Overall, in terms of users of the Lovers’ Walk I consider that the measures proposed along the three sections are reasonable and proportionate to enable walkers and cyclists to mutually use this route. The improvements would assist those lawful users of the route where the narrowness in places means that use of the space is presently compromised.
15. The changes to the route already benefit from planning permission. During that process, the needs of all users, including disabled people, would have been considered and I do so again as part of this process. I am conscious of the Public Sector Equality Duty as set out in s149 of the Equality Act 2010. There will be some users who have a disability and who would wish to use the general level path as a route for walking and enjoying the Common. I have carefully considered all the arguments that the changes may put off such users. However, I am not convinced that the widening and related works would make the present situation, with the narrowness and the need to move out of the way of cyclists, any worse. Indeed, with the additional width and related speed calming measures, the situation is likely to provide more space for all users and accommodate the needs of a wider variety of active participants along the route, who can in turn appreciate the Common.
16. In these respects, I agree with the views of Natural England who have commented that the proposed works will improve access and decrease user conflicts by giving adequate space for dual user groups in an already congested area. Furthermore, I given weight in my considerations that the OSS are supportive of the scheme and explain that the works would assist in the enjoyment of the Common and it accepts that some modest widening of the existing path is necessary in order to accommodate both walkers and cyclists.
17. Taking all these matters together, I conclude that in terms of those within the neighbourhood who use and would use the routes, the scheme would provide an overall public benefit for access for all users.

***The public interest***

*Nature conservation*

1. The scheme would involve the addition of tarmacadam to some of the sides of the route that are presently undeveloped. However, many sections of this land are fairly barren because they have become worn by users, although some of the grass does not grow because it is overshadowed by trees and bushes. The addition of tarmacadam to these adjoining strips to the present route would have, because of the generally barren condition of the land, little effect on biodiversity. Furthermore, the extra width is more likely to stop users needing to move onto other adjoining land to pass other users, thereby protecting those sites from wear and compaction.
2. The application has been supported by various detailed ecological reports and surveys that set out that the impacts would not be harmful overall to nature conservation. These include proposed ecological enhancements and aspects to improve the Biodiversity Net Gain of the Common as a whole.
3. Natural England has commented that it does not anticipate any significant nature conservation benefits from the proposed works although it notes that the removal of some sections of hardstanding would allow for regrowth and therefore Natural England envisage some possible nature benefits.
4. The SSSI lies on the western side of The Avenue and the upgrading works to Lovers’ Walk would not have any undue or adverse effect on this protected land.
5. Also, as part of the application, areas of hard surface elsewhere on the Common are to be removed. These include areas within the SSSI where the base of a changing room, two tarmac cricket strips and the path to a removed toilet block would be dug up and returned to grass. Furthermore, hardstanding at the entrance to Oakmount Avenue has already been removed. The strip of hard surface at the beginning of Section 3 has been reverted to grass. In combination these works would have a meaningful and positive effect on the Common and assist in providing more grassed area.
6. There would, nevertheless, still be more hardstanding areas provided than would be removed. However, I consider that the increased width of the route would be for a purpose that was compatible with the use of the land as common. It would assist walkers, runners and cyclists accessing and using the Common and, therefore, I am satisfied that the issue should not simply be a mathematical equation in relation to hard surface areas. I am, therefore, not convinced that the two areas of land outside but close/adjoining the Common that the Council indicate could be dedicated as town or village green are necessary to make the scheme acceptable. In terms of the land to the south of Burgess Road this is already connected with the Common and the land at Northlands Road is cut grass with little nature conservation interest. Both areas already appear to have the ability for the public to access them. There is, however, nothing stopping the Council from dedicating these parcels as it proposes.
7. With the proposals for Biodiversity Net Gain, the removal of the hard surfaces that lie within the Common and the reduction in likelihood of users straying from the widened route and making this adjoining land barren as at present, I consider that the nature conservation impacts would be acceptable.
8. Natural England has commented that to remove the three areas of hardstanding from the SSSI it would be necessary to follow the Assent process setting out the procedure and methodology for the works in these areas. This is not anticipated to present a problem and could be made the subject of a condition in any approval.

*Conservation of the landscape*

1. There are areas of the Common which are open, grassed land, and which allow extensive views across the Common. There are other areas where the tree cover dominates and this provides a more woodland and countryside character. Sections 1 and 2 of the Lovers’ Walk route, despite passing close to housing and the University campus, are through areas of woodland that create a tranquil and countryside atmosphere. They are to be valued for this character so close to the built up area of Southampton.
2. The works to Section 3 would not have a material visual impact and bring the surface in line with those other routes in this area. The widening and speed calming measures along Section 2 would be noticeable but reasonably minor in impact. For Section 2, the tarmacadam area, with its reasonably meandering character would not be dominating or overbearing once the works have been completed and the surrounding sides have regrown.
3. The Section 1 widening to 3.5m would create a noticeably wider tarmacadam surface. Within the reasonably intimate scale and character of this woodland area, the extra hard surfacing would have an impact. In association with the speed calming measures, the effect of the widening would be to create a more dominant presence to the route and dilute some of the woodland and informal character of this part of Lovers’ Walk. I consider that the effect would be modest but it would nevertheless result in a harmful and urbanising change.
4. Natural England has examined the proposals and advise that once the works have been completed it is envisaged that there will be minimal impact to the landscape. In terms of the physical changes to Section 1, I consider that this underestimates the effect of the change. As commented above, while the change in this area would be modest in impact, because of the sensitivity and character of this part of the Common it would, nevertheless, be a harmful and urbanising change to the landscape quality of this area. This modest level of harm needs to be considered in the overall balance of considerations.

*Public access*

1. In terms of public access, the proposal, as explained above, would improve the ability of both walkers and cyclists to use the Lovers’ Walk. The scheme would help enable users to access and, therefore, enjoy and appreciate the special character of the Common within this wider urban area. Overall, the scheme would make beneficial and long lasting improvements for the public to access this section of the Common.

*Archaeological remains and features of historic interest*

1. There is no evidence that the ground works, which would be to a limited depth, would cause any material harm to archaeological remains or features of historic interest.

**Other Matters**

1. Paragraph 4.3 of the Consents Policy states that the Secretary of State will wish to know what alternatives have been considered to the application proposed. Alternative routes and proposals are raised by objectors to the application, principally SCAPPS and Mr Hill.
2. It appears that the proposals have been subject to much local consultation over a number of years. For instance, Natural England has commented that since 2013 to 2021 various proposals have been discussed which included widening the path and a separate cycleway along Furzedown Road. The letter from Natural England refers to a variety of consultations, including drop-in meetings, letter drops to residents and publicity through the Council and University websites, as well as stakeholder consultations.
3. The objectors set out a range of alternatives which it is said would be better than the application proposal and which would help to reduce and remove conflicts between users. I looked at these as part of my site visit and I appreciate that these alternatives have been proposed in the spirit of seeking options that would help to meet the needs of all users.
4. However, most of these alternatives involve diverting cyclists away from the Lovers’ Walk route. This would disadvantage recreational cyclists using the Common if the existing route was to be prohibited for cycling, or if it was still allowed but the width not increased thereby retaining the present problems. Furthermore, the Lovers’ Walk route is an important north-south cycling route that connects housing and university accommodation to the north with the University and, to the south, the more central areas of Southampton. As a matter of principle, diverting cyclists off the route is likely to be less attractive to those users and they would be moved, mainly, onto roads and therefore have less opportunity to appreciate the Common.
5. For instance, the suggestion to divert cyclists off a part of Section 2 by diverting them around Blenheim Avenue, along Westbourne Crescent and then back onto Lovers’ Walk via Oakmount Avenue, is more circuitous, diverts cyclists away from the Common and is, in my view, a more suburban and less attractive cycling route.
6. This applies to a lesser extent to the proposal for cyclists to use Furzedown Road, instead of the southern part of Section 1 of Lovers’ Walk. An aspect of this suggestion is that this could involve the removal of some on-road parking within Furzedown Road. This would also have implications for occupants of the housing in these roads and local drivers. Again, this alternative moves cyclists onto a road, albeit in the same way as the section of the route along Highfield Road, but it would not be as amenable for cyclists who have the present ability to use a green and linear corridor through the Common.
7. Another option, either alone or in conjunction with the use of Furzedown Road, would be to create a route through the garden of the end property in Oakhurst Road, then for the route to slope down to connect with and then use the internal University road to join up with Salisbury Road. While technically this may be possible with the use of legal powers and procedures it would involve the provision of a route through a private property and then onto the land owned by the University. The internal access road presently has a barrier to help control use of the University car park and this is again a complication that would need to be addressed. While this route may assist students cycling to attend that part of the campus it would be less convenient and pleasant for cyclists travelling north-south through the Common or general cyclists using the Common for recreation. Overall, I am not convinced that this would be a reasonable and practical alternative.
8. The suggestions of alternatives for the section towards Burgess Road would create a parallel route separating cyclists from walkers. This would involve a tarmacadam route through a presently undeveloped part of the Common and I am not satisfied that it would provide a material benefit compared to the shared route down the slope from the road crossing.
9. I do not consider that the benefits to walkers to solely use parts of the Lovers’ Walk route, if cycling was to be prohibited on those sections where alternative routes would be put in place for cyclists, would outweigh the downsides for cyclists. This is because the extra width as proposed should be able to accommodate the needs of both users. In any case, walkers have a right of access under the Countryside and Rights of Way Act 2000 across the Common and, therefore, are not legally forced to only use the shared route.
10. Mr Hill has submitted a range of Commons decisions and this reinforces the importance of considering alternatives and, if there is not sufficient investigation and analysis, this could form a reason for refusal. In this case, I am satisfied that through the quite long gestation of the proposals there has been local and stakeholder consultation and acceptable consideration of alternatives. Options have again been considered as part of this application process and I have looked at the main alternatives above.
11. In summary, the present Lovers’ Walk provides part of the network around the Common for cyclists wishing to use the Common for recreational purposes and a linear route through the Common. It provides a pleasant off road and direct route through the Common connecting areas around the adjoining urban form of the city. The alternatives for cyclists are more convoluted and/or disjointed, may involve private land and would not allow cyclists the ability to appreciate the Common to the same extent. The benefits to walkers would not outweigh the disadvantages to cyclists. As I have found that the proposal would improve to an acceptable level the ability of both walkers and cyclists to use the present route, I find that the suggested alternatives in whole, or in part, would be much less amenable, reasonable or practical options.

**Conclusion**

1. Lovers’ Walk provides an important and well used green corridor linking parts of the city and allowing local residents to walk and cycle around the Common for recreational purposes. However, the narrowness of the route along Sections 1 and 2 means that there are conflicts, at times, between walkers and cyclists. The scheme the subject of the application has been carefully considered and forms a reasonable and proportionate proposal with increases in width and speed calming measures to provide benefits to both walkers and cyclists.
2. The increased width to the route in Section 1 would be noticeable and create a modest harmful and urbanising effect. This is a negative aspect of the scheme. However, I accept that this width is necessary and reasonable to accommodate the level of use along this section of Lovers’ Walk and would be of benefit to walkers and cyclists who both could be accommodated more amenably in this area. I am satisfied that the benefits to users in terms of public access and related enjoyment of the Common would more than outweigh the modest visual effect of this part of the scheme.
3. There would be no material harm to biodiversity or archaeology, indeed in relation to biodiversity I consider there is likely to be a net improvement. No commoners would be affected. The fencing around the works would only be on a temporary basis, be necessary for safety purposes and have no lasting impact.
4. The scheme promotes sustainable travel in the public interest and any alternatives are not especially practical or reasonable options that could be pursued. With the overall package of proposals within the Common itself, including the removal of areas of hard surface, the scheme would help to maintain the condition of the Common and the changes to Lovers’ Walk would confer wider public benefits, improving the ability for the public to access this part of the Common. The works in themselves are modest and would not have a significant impact on the Common and, by improving the ability by all groups of users to access this part of the Common, the works would be consistent with the status of the land as a common. Taking all matters into account the balance of considerations clearly falls in favour of approval.
5. For the reasons explained earlier in this decision, I am satisfied that the scheme is acceptable as applied for in the banner heading. It would be open for the Council to dedicate and register the two areas of land as proposed as town or village green if it wished.
6. In terms of conditions that should be attached to the approval, it is necessary that the Assent process with Natural England is completed in relation to the works within the SSSI. The fencing should only be allowed on the Common on a temporary basis as it is required in association with protecting the public from the works while they take place. A suitably worded condition can ensure that this is the case.
7. Subject to the specified conditions, I conclude that consent should be granted for the application.

David Wyborn

INSPECTOR