



Application Decision

by Richard Holland

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

Decision date: 22 June 2022

Application Ref: COM/3275202

Buckstone Common comprising Staunton Meend, Little Meend and Hymen's Meend, Coleford, Gloucestershire

Register Unit No: CL298

Commons Registration Authority: Gloucestershire County Council

- The application, dated 12 May 2021, 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 Coleford Parish Council.
 - The works comprise the retention of 200m of 1m high stock fencing, 2 pedestrian gates, 2 cattle grid/gate sets and 1 road gate.
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Decision

1. Consent is granted for the works in accordance with the application dated 12 May 2021 and the plans submitted with it subject to the following conditions:
 - i. the works shall be upgraded as necessary to accord with BS5709:2018 within 6 months of the date of this decision.
 - ii. the works shall be removed on or before 22 June 2032.
2. For the purposes of identification only, the location of the proposed works is shown outlined 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 is solely to retain works that were previously given consent for a time-limited period of 10 years (Application Decision COM/270 of 16 September 2011). The application as made seeks permanent retention of the works but in response to representations received about the proposals the applicant agreed to instead seek a further 10 year consent period.

5. This application has been determined solely on the basis of written evidence. I have taken account of the representations made by Natural England (NE) and the Open Spaces Society (OSS).
6. 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

The interests of those occupying or having rights over the land

7. The Common is owned and managed by the applicant, Staunton Coleford Parish Council (SCPC), and it follows that the proposed retention of the existing works is in the owner's interests.
8. The common land register records two rights holders. SCPC advises that one of them occasionally exercises her right to graze 8 horses or ponies and that the other does not exercise his rights other than to take tree loppings. Both rights holders were consulted about the application but did not comment. There is no evidence before me to suggest that the works are likely to harm the interests of those having rights over the land.

The interests of the neighbourhood and public rights of access

9. 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.
10. No new works are proposed and a further period of consent for the existing works will create no new impediments to public access or interfere with how the land has been used by local people for the last 10 years. OSS points out that public access rights would benefit from the removal of all fencing but raises no specific concerns about the impact the works have had on public access since they were installed or about any impact they might have in the future. NE advises that the works have enabled the common to continue to be accessed by the public and is not aware of any conflicts between the grazing animals and the people using the common.
11. OSS advises that the relevant British Standard for Gaps Gates and Stiles (BS5709) was updated in 2018 and that the gates in place may no longer meet the standard. In response SCPC says it will modify or replace all gates and fastenings as required to meet the 2018 standard, which can be ensured by attaching a suitable condition to the consent.
12. There is no evidence before me to suggest that retention of the works for a further 10 year period will harm the above interests such that consent should be refused.

The public interest

Nature conservation

13. The application land is not subject to any statutory designations for nature conservation but the applicant says it is designated locally as a Key Wildlife Site by the *Gloucestershire Nature Trust* (I assume the applicant means the Gloucestershire Wildlife Trust). As owner and manager of the land SCPC aims to restore it to an acid grassland and heathland species-rich mosaic of vegetation, typically including fine grasses, broadleaved flora and heathers together with sedges and rushes where water flushes and pooling occurs. This is to be achieved with support from NE and Higher Level Stewardship funding, which was awarded for 10 years in 2009 and has been renewed each year since 2019. The current funding agreement runs until April 2023.
14. Seasonal grazing is important to the conservation plan as a way of controlling the spread of bracken. For the past 10 years the land has been grazed by Exmoor ponies and SCPC is looking to diversify into other suitable livestock (cattle). The principal aim of retaining the works is to stop grazing animals from wandering from the common; in particular preventing them from straying onto the A4136, which is a busy HGV route. Retaining a physical barrier would also help to keep wild boar, which are well established in the area, off of the common.
15. NE advises that the pony grazing has reduced the areas of bracken and weakened its growth during the period that the funding agreement has been in place. NE believes that the site would further benefit from seasonal cattle grazing, which would help to crush the bracken and break up the thatch, creating a more diverse sward structure and allowing more heather to regenerate. NE further advises that retaining secure stock-proof fencing will be crucial to enabling ongoing nature conservation improvements.
16. I conclude that retention of the works for a further 10 years is in the nature conservation interests of the common.

Conservation of the landscape

17. SCPC advises that the fence lines were selected to be as unobtrusive as possible and that they run approximately 3 metres away from tracks and pathways so as to merge into the undergrowth. It further advises that the traditional wooden gates and simple conventional livestock fencing attached to locally sourced treated softwood posts blend naturally into the surrounding landscape.
18. The common lies within the Wye Valley Area of Outstanding Natural Beauty (AONB). The AONB Manager has confirmed his support for retention of the works to continue the conservation and enhancement of the Meend. I consider that the works are likely to have blended into the landscape to an extent since they were put in place. Whilst there may have to be some renewing of gates and fastenings in order to meet the current BS5709 standard, I conclude that their retention for a further 10 years will have little impact on the landscape and that the natural beauty of the AONB will be conserved.

Archaeological remains and features of historic interest

19. There is no evidence before me to suggest that retaining the works for a further 10 years will harm archaeological remains and features of historic interest.

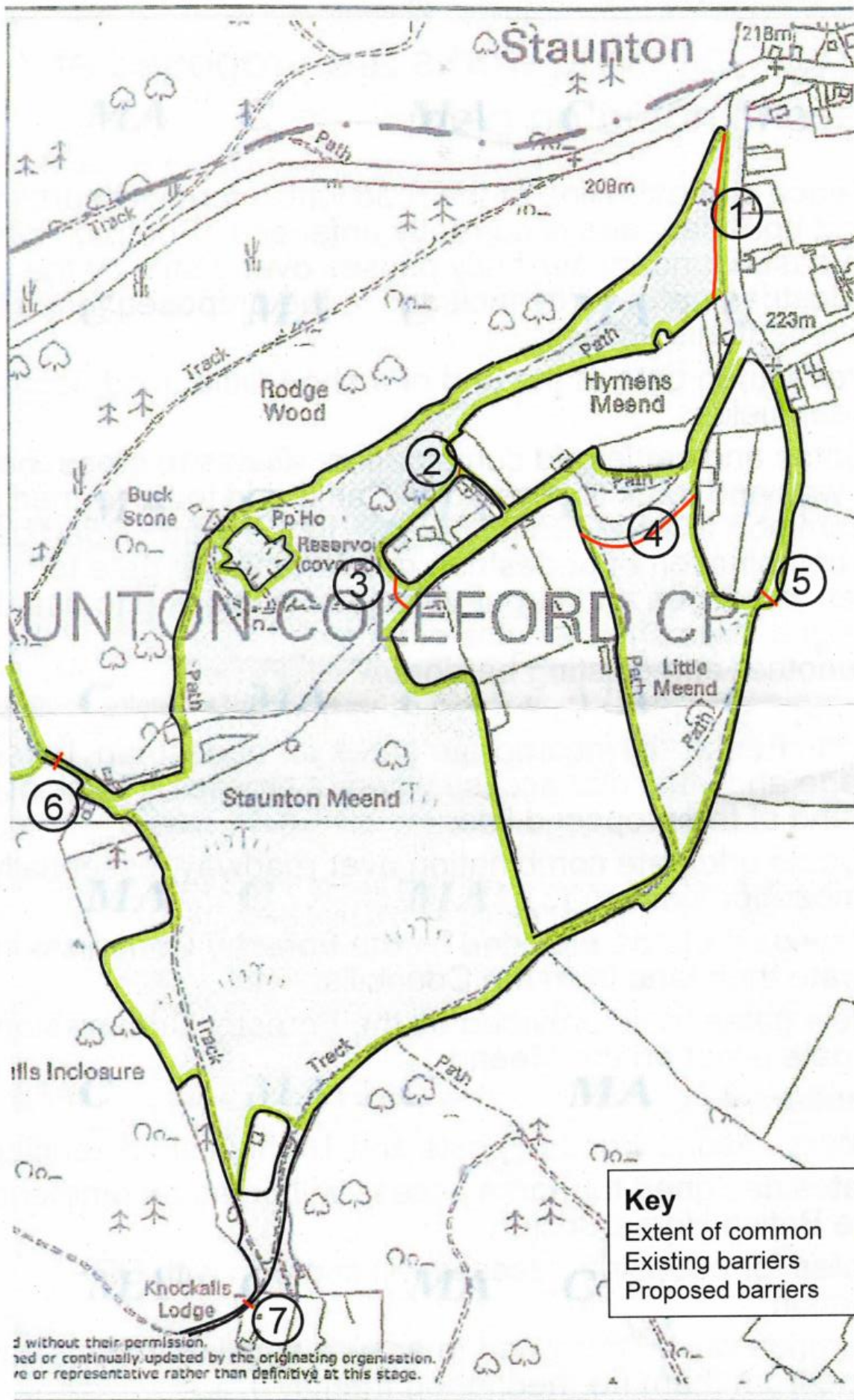
Other relevant matters

20. OSS suggests the use of invisible (or virtual) fencing as an alternative, which would allow the works to be removed. This would benefit public access and the landscape and SCPC recognises that this would ultimately be the way forward. However, in addition to concerns about the impact of introducing such a change into the established project and the high cost, SCPC regards virtual fencing, as currently available, to be unsuitable for containing Exmoor ponies. I accept the applicant's concerns and have determined the application on its merits and as made.

Conclusion

21. I conclude that retention of the previously consented works for a further period of 10 years will benefit nature conservation interests and will not seriously harm the other interests set out in paragraph 6 above. Consent is therefore granted for the works subject to the conditions set out in paragraph 1.

Richard Holland



without their permission.
 ted or continually updated by the originating organisation.
 re or representative rather than definitive at this stage.