



## **Penderfyniad ar yr Cais**

Ymweliad â safle a wnaed ar 14/09/2021

gan **J Burston BSc MA MRTPI**

**Arolygydd a benodir gan Weinidogion  
Cymru**

**Dyddiad: 19/01/2022**

## **Application Decision**

Site visit made on 14/09/21

by **J Burston BSc MA MRTPI**

**an Inspector appointed by the Welsh  
Ministers**

**Date: 19/01/2022**

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**Application Ref: COM 3275684**

**Land in the Community of Buckley**

Register Unit: CL 7 (Buckley Common, Hawksbury Road) comprising an area of approximately 18.850 acres.

Commons Registration Authority: Flintshire County Council

- The application, dated 01 July 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 Flintshire County Council (Streetscene Maintenance)
  - The works involve the construction of a 3 metre wide shared use path (for pedestrians and cyclists) which will run adjacent to Hawkesbury Road, linking existing footways on the east and west sides of the common land.
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## **Decision**

1. Consent is granted for the works in accordance with the application dated 01 July 2021, subject to the following conditions:
  - 1) The works shall begin no later than five years from the date of this decision.  
  
REASON: To provide assurance for common land users.
  - 2) All temporary fencing shall be removed within one month of the completion of the works.  
  
REASON: To ensure that the common land remains accessible for common land users.

## **Procedural Matters**

2. I carried out an unaccompanied site inspection on 14 September 2021. My decision has been made on the basis of my observations on this visit, taking account of the application and representations received in response to the advertisement of the application.
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3. I have had regard to the Welsh Government Common Land Consents Guidance, published in August 2014, which sets out the benefits which common land should deliver, and the outcomes that it considers must be ensured by the consents process. This document has been published for the guidance of both the Planning Inspectorate and applicants. However, the application will be considered on its merits and a determination will depart from the published policy if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the policy.
4. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of making our cities, towns and villages even better places in which to live and work.

### **Main Issue**

5. Section 38 of the 2006 Act provides that a person may apply for consent to carry out restricted works on land registered as common land. Restricted works are any that prevent or impede access over the land.
6. In considering such an application I am required by section 39 of the 2006 Act to have regard to the following:
  - 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 which includes the interest in nature conservation, the conservation of the landscape, the protection of public rights of access and the protection of archaeological remains and features of historic interest; and
  - d) any other matters considered to be relevant.

### **Reasons**

#### *Preliminary matters*

7. The common (CL 7) comprises a number of parcels of land, which cover an area of approximately 18.850 acres. The parcel of land to which this application relates (known as Higher Common) is broadly rectangular in shape and used as a public park.
8. The works to the Common are required in order to construct a 3-metre-wide shared use path (for pedestrians and cyclists). This path would be contiguous with Hawkesbury Road. During the construction operations an area of the Common would be enclosed by temporary fencing.

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

9. The landowner (Buckley Council) has no objection to the proposed works, subject to reinstatement of the land. From the evidence before me there are registered rights to graze cows, horses, ponies, chicken and ducks over the wider common. However, the area of common to which this application relates is managed by Flintshire County Council under a land management scheme as a public recreation area.

10. Given the location, scale and temporary nature of the works involved, I am satisfied that the proposal will not harm the interests of those occupying or having rights over the land.

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

11. 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. As I observed on my site visit people use this area of common for general recreation and dog walking. The works will change the surface of the common from grass to asphalt. However, the public would still be able to use the common and may find the path easier to walk on particularly if they are crossing the common to access the wider community facilities.

12. Access to the working area will be restricted for a limited time while construction works are being undertaken. The applicant suggests that this would be between 4 to 5 weeks.

13. I accept that temporary barriers are required for health and safety purposes. I consider that, as the proposed works will only impede access for a short duration and the ground will be reinstated, the interests of the neighbourhood will not be harmed, and public rights of access will not be interfered with in the long term.

***Nature conservation, archaeological remains and features of historic interest and conservation of the landscape***

14. The application area is part of a wider recreation area, managed as short mown grass. Whilst this habitat does offer biodiversity opportunities, the loss of a small section of grassland, close to the highway, would not significantly impact on nature conservation interests.

15. There is no evidence before me to indicate that the proposed works will harm archaeological interests. Furthermore, Cadw have raised no objections.

16. Given the small scale and localised impact of the proposed development within the wider landscape, I am satisfied that any impact on the landscape will be short term and following restoration the proposed works will conserve the landscape in the long term. Accordingly, there will be no long term visual intrusion or encroachment into the landscape.

**Conclusions**

17. I consider that on balance the proposed works will not harm any of the interests set out in paragraph 6 above. The works would be in conformity with the Welsh Government's policy objectives and Guidance in relation to works on common land and consent is therefore granted for the works subject to the conditions set out in paragraph 1.

*J Burston*

INSPECTOR