



Penderfyniad ar Gais

Ymweliad safle a wnaed ar 16/08/2017

gan Kay Sheffield BA(Hons) DipTP
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 05/09/2017

Application Decision

Site visit made on 16/08/2017

By Kay Sheffield BA(Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 05/09/2017

Application Ref: COM/3173941

Site address: Houghton Moor, Houghton, Pembrokeshire

The Welsh Ministers have transferred the authority to decide this application to me as the appointed Inspector.

- The application dated 15 April 2017 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 relates to Houghton Moor (CL 109).
- The application is made by Mr Brian Summons.
- The proposed works are the construction of 20 metres of 150mm diameter upvc pipe and two Type 2 manholes with invert levels of 1.52 metres and 0.975 metres below existing ground levels and constructed in accordance with the Welsh Ministers' standards for new gravity sewers and lateral drains; and approximately 2 to 3 metres of 150mm diameter upvc storm water pipe discharging to an existing stream.

Decision

1. Consent is granted for the construction of 20 metres of 150mm diameter upvc pipe and two Type 2 manholes with invert levels of 1.52 metres and 0.975 metres below existing ground levels and constructed in accordance with the Welsh Ministers' standards for new gravity sewers and lateral drains; and approximately 2 to 3 metres of 150mm diameter upvc storm water pipe discharging to an existing stream at Houghton Moor, Houghton, Burton, Pembrokeshire in accordance with the application dated 15 April 2017 and the plans and supporting information submitted with it subject to the following condition:
 - 1) The works including the reinstatement of the land shall be carried out in accordance with the details contained in the application and shall be completed not later than three months from the date of their commencement.

Procedural and Preliminary Matters

2. In determining the application I have had regard to the Welsh Government's Common Land Consents Guidance, August 2014 (the Guidance) which has been published for the guidance of both the Planning Inspectorate and applicants.
3. Houghton Moor is registered as common land and amounts to approximately 6.184 acres. There is no evidence of any registered common rights and ownership of the land is unknown. The question of ownership was considered in December 1989 by the Commons Commissioner who concluded "*in the absence of any evidence I am not satisfied that any person is the owner of the land, and it will therefore remain subject*

to protection under section 9 of the Act of 1965". As a result Burton Community Council and Pembrokeshire County Council are identified as joint protectors.

The Application

4. The application seeks consent for:
 - the construction of twenty metres of 150mm diameter upvc foul drainage pipe with two Type 2 manholes with invert levels of 1.52 metres and 0.975 metres below existing ground levels and constructed in accordance with the Welsh Ministers' standards for new gravity sewers and lateral drains. The works to be located immediately to the north of the existing Welsh Water pumping station; and
 - approximately two to three metres of 150mm diameter upvc storm water pipe discharging from a holding lagoon to the existing stream situated thirty four metres west of the Welsh Water pumping station on Houghton Common.
5. The works are required to provide foul and surface water drainage to new residential properties on the adjoining land to the north for which planning permission has been granted. The foul drainage pipe would cross Houghton Moor and connect into a manhole at the entrance to the existing Welsh Water pumping station. The surface water pipe would discharge from a holding pond within the proposed development to the adjoining stream within the common land.
6. Houghton Moor is primarily a linear tract of rough grass with a central stone track approximately 3 metres wide. It is signposted as both a public footpath and a bridleway. The works, which would take approximately 3 days to complete, are proposed in two sections in order to ensure access to the common land is maintained. The working area would be fenced temporarily and the trenches would be back-filled with pea gravel and excavated material before being re-seeded.
7. The procedures to be followed for this application are set out in The Works on Common Land, etc (Procedure) (Wales) Regulations 2012. The Regulations require that the application be publicised and that an opportunity be provided for representations to be submitted to the determining authority by any person. In accordance with these requirements, a notice of the proposal was posted on site and also published in the Western Telegraph on 19 April 2017.
8. The applicant has also confirmed that in addition to Pembrokeshire County Council and Burton Community Council being consulted as joint protectors of Houghton Moor, consultation letters were also sent out to Cadw, Natural Resources Wales, The Open Spaces Society and Pembrokeshire Ramblers.
9. I am satisfied that the required publicity has been carried out and the actions taken, including advertisement in the press and on site, have provided an opportunity for all those with an interest in the land to comment on the application.

Representations

10. Pembrokeshire County Council raised no objection to the proposed works on the understanding that the Council was not expressly or by implication acknowledging any responsibility for the protection or maintenance or repair of the pipework or associated manholes. Burton Community Council also raised no objection provided that works to provide a parking area on the community playing field were completed as agreed. The Open Spaces Society raised no objection on the understanding that the effect of the works would be minimised and public access by walkers and riders would not be adversely affected. Pembrokeshire Ramblers raised no objection to the interruption

and as the works would not affect any heritage assets, Cadw had no comments to make. In the absence of a response from Natural Resources Wales it is assumed that it has no objections.

The Statutory Requirements

11. In determining this application for consent, I am required by section 39 of the 2006 Act to have regard to:
 - 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 (including 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 matter considered to be relevant.
12. Common land is a finite resource and the Welsh Government has indicated that it should not be developed unnecessarily, access to it should not be prevented or impeded unnecessarily, and the proper management of it should be encouraged.

Reasons

The interests of persons having rights in relation to the land

13. The application states that there are no known common rights registered or exercised over the land and there is nothing in the responses to the consultations to indicate otherwise. I therefore conclude that the proposed works would not unacceptably interfere with the interests of those occupying or having rights over the land.

The interests of the neighbourhood

14. This is usually interpreted as relating to the way the common land is used by local people. The correspondence from The Open Spaces Society and Pembrokeshire Ramblers indicates that Houghton Common is accessed by walkers and riders.
15. According to the application the works would take approximately three days to complete and it would be carried out in two sections. Whilst this would maintain public access to the common land it would be restricted as the area being worked on would need to be fenced off. As a result there would be some restriction on access during the works, albeit for a temporary period. Notwithstanding this, I am satisfied that the works would not unacceptably interfere with use of the land by local people.

The public interest

16. The public interest is defined at sections 16(8) and 39(2) of the Act as including the public 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.
17. Natural Resources Wales, as statutory advisor in respect of nature conservation, has made no comments and no concerns have been raised by others. Since the land would be fully re-instated I have no reason to believe the works would be harmful to any nature conservation interests and I am satisfied that the works would not harm the public interest in nature conservation terms. Furthermore, effects on the landscape would be short term during the works with no long term impacts as the pipes would be underground.

18. As stated above, the works would restrict access to small sections of the common land during the short term temporary works. However, on completion the public rights of access would continue unimpeded. I do not find that there would be any lasting harmful effects on public rights of access.
19. With regard to the effects on archaeological remains and features of historic interest, Cadw confirmed that there are no scheduled monuments or registered historic parks and gardens within the vicinity of the proposed development. No archaeological implications or concerns regarding the proposed works have been raised.
20. In relation to matters of public interest, I conclude that any impacts would not be significant.

Other relevant considerations

21. The purpose of the proposed works is to provide foul and surface water drainage to a residential development on land adjoining Houghton Common. The works, which would be underground, would allow the necessary connections to the Welsh Water pumping station and the existing stream both of which are located within the Common. The works would be completed within three days and the excavated land would be re-instated. The works would provide a wider public benefit through the provision of new housing. On this basis I find that the proposed works would conform to the policy objectives set out in the Guidance.
22. I have noted the comments made by Pembrokeshire County Council and Burton Community Council regarding future maintenance of the infrastructure to be installed and the provision of car parking. However, these are not matters which fall within my remit in determining the application.

Conclusion

23. I have taken into account all matters raised and conclude that, subject to conditions, the proposed works would not unacceptably affect the interests of persons having rights in relation to the land, the interests of the neighbourhood or the wider public interest. The works would be in conformity with the Welsh Government's policy objectives and Guidance in relation to work on common land and would have a wider public benefit.

Formal Decision

24. For the reasons given above, I allow the application and grant consent for the proposed works subject to the condition specified in paragraph 1 of this decision.
25. 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 my decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives as required by section 8 of the Act.

Kay Sheffield

Inspector