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## **Penderfyniad ar yr Cais**

Ymweliad â safle a wnaed ar 22/01/2019

**gan Joanne Burston BSc MA MRTPI**  
**Arolygydd a benodir gan Weinidogion Cymru**  
**Dyddiad: 06/02/2019**

## **Application Decision**

Site visit made on 22/01/19

**by Joanne Burston BSc MA MRTPI**  
**an Inspector appointed by the Welsh Ministers**  
**Date: 06/02/2019**

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### **Application Ref: COM 3215520** **Hardings Down Common, Swansea**

Register Unit: CL 2 comprising a total area of approximately 109 hectares. The section of Hardings Down Common, subject to this application, comprises an area of approximately 24.8m<sup>2</sup>

Commons Registration Authority: Swansea County Council

- The application, dated 3 November 2018, 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 Llangennith, Llanmadoc and Cheriton Community Council.
- The works comprises a bund constructed of earth and stone, approximately 17 metres long.

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### **Decision**

1. Consent is refused.

### **Procedural Matters**

2. I carried out an unaccompanied site inspection on 22 January 2019. My decision has been made on the basis of my observations on this visit, taking account of the application and any representations received in response to the advertisement of the application.
  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.
  4. In reaching my decision, I have also 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 supporting a more equal and resilient Wales with cohesive communities.
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## **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**

### *Background*

7. The application site, approximately 24.8m<sup>2</sup>, is located on the edge of the settlement of Llanmadoc and is a flat, roughly triangular shaped, area of grass which adjoins the highway. At the time of my visit modest sized stones were placed along its boundary with the highway.
8. The proposed bund would be approximately 0.58m high and 1.2m wide, constructed from soil and stone and then turfed. Three entry points through the bund are proposed, each 1m wide to allow access by pedestrians and grazing animals.
9. The application was made following a grant of planning permission<sup>1</sup> for the "*Addition of earth bund approx. 0.58m high to prevent parking but still allow pedestrian access and grazing on the green at the rear of Sibwrđ y Mor*".
10. The Applicant and owner of the Common, Llangennith, Llanmadoc and Cheriton Community Council, states that the bund is required to prevent car parking which is eroding the area of Common Land.

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

11. Pasturage rights exist and are exercised on the Common by 8 Commoners. However, the landowner and the Commoners have confirmed that they have no objection to the proposed works. I do not consider that the proposed works will prevent the exercise of common rights, particularly given the small scale of the works proposed.
12. I am satisfied that the proposed works will not harm the interests of those occupying or having rights over the land.

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<sup>1</sup> Planning permission reference 2018/0408/FUL refers.

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

13. Given the small scale nature of the works and that access will be maintained in the longer term I do not consider that the proposed works will interfere with the way Hardings Down Common as a whole is used by local people.
14. I conclude that the proposed works will not impact adversely on the interests of the neighbourhood and the protection of public rights of access.

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

15. The application area is located within the Gower Area of Outstanding Natural Beauty (AONB) and the Llanmadoc Conservation Area. Two Scheduled Ancient Monuments (SAM) are located within 500m of the application site, namely 'St Madoc's Church Cross-incised Stones' and 'The Bulwark', Llanmadoc Hill.

Nature Conservation

16. I have no evidence that the proposed works will benefit nature conservation, but neither will there be a detrimental impact. Accordingly, based on the evidence before me, I conclude that the proposed works do not impact adversely on nature conservation interests.

Conservation of the landscape

17. The primary objective for the Gower AONB is for the conservation and enhancement of its natural beauty. In addition, all public bodies have a duty under section 85 of the Countryside and Rights of Way Act to have "*regard to the purpose of conserving and enhancing the natural beauty of the area...*" when exercising their functions. The vision statements for the AONB state at point 4<sup>2</sup> that the Gower AONB is "*A landscape, which is internationally renowned for its small scale and variety of character and which is closely related to the surrounding sea and, supports sustainable development. A landscape where the built environment is complementary to this character and where the pattern of small fields, tracts of common land, and sunken lanes remain as examples of man's impact in evolving the landscape character.*"
18. The village of Llanmadoc sits on a hillside, surrounded by undulating countryside. The village itself is a linear settlement with houses situated alongside, but set back from, the road. Throughout the village are a number of small parcels of grass recognisable as roadside verge, but registered as common land. Some of these areas are demarcated by stones to prevent vehicle parking or are formed as steep sided banks to account for the change in ground levels. These areas add to the attractive verdant natural beauty of the village and form part of the special historic interest, visual quality and key characteristics which are also part of the Llanmadoc Conservation Area<sup>3</sup>.
19. I did not see any similar bunds to that being proposed in the local area. To my mind such a structure would appear overtly engineered, introducing an alien and visually

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<sup>2</sup> Page 67 of the Gower Area of Outstanding Natural Beauty Management Plan October 2016

<sup>3</sup> Conservation Areas are designated due to an area's special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance.

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intrusive feature on the Common, which forms part of a Conservation Area and AONB. It would thus reduce the visual quality of the Common hereabouts.

20. Whilst I note the applicant's concerns over the erosion of the Common from vehicles I am not satisfied that alternative prevention measures, which may have less impact on the local landscape have been fully considered.
21. Overall I find that the works unacceptably harm the appearance of the landscape and would fail to conserve the natural beauty of the AONB.

Archaeological remains and features of historic interest

22. There are two SAMs within 500m of the proposed works. However, the setting of these SAMs is unlikely to be affected by the proposed works. Cadw responded to the consultation by saying that it did not object. Accordingly, I am satisfied that the proposed works do not harm any archaeological remains or features of historic interest.

**Conclusions**

23. The proposed works would not adversely affect the interests of those with rights over the common or the neighbourhood, including public rights of access. However, I am not satisfied that the proposal can be created without any impact on the common land, particularly in terms of landscape conservation. On balance the applicant's case is not sufficiently compelling to outweigh the harm the works cause to the common.
24. For the above reasons, I consider that it is not expedient to give consent to the proposed works. Accordingly, in exercise of the powers conferred by the 2006 Act, and of all other enabling powers, consent is not given to this application.

*Joanne Burston*

INSPECTOR