



**APPLICATION FOR CONSENT TO CARRY OUT WORKS ON
COMMON LAND**

Commons Act 2006: Section 38

National Trust Act 1971: Section 23

Greater London Parks and Open Spaces Order 1967: Article
12

Return completed application to:

The Commons Team
The Planning Inspectorate
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2 The Square
Temple Quay
Bristol
BS1 6PN

Tel: 0303 444 5408

E-mail: commonlandcasework@planninginspectorate.gov.uk

- **Before you apply for consent you should consult informally and widely about the proposed works as this may help you identify and overcome any objections.**
- Answer all the questions on this form in full, tick all relevant boxes and use a separate sheet where there is insufficient space for your answer.
- Refer to separate **Notes** on completing this form (the "Notes") and **Guidance Sheets** (listed at **Annex F** of the **Notes**) before applying.
- Read **Guidance Sheets 1a, 1b and 1c** for all Section 38 cases.
- Read **Guidance Sheet 2a** if the land is owned by the National Trust.
- Read **Guidance Sheet 2b** if the land is registered as a town or village green.
- Read **Guidance Sheet 2c** if the land is regulated by a scheme of management.
- Read **Guidance Sheet 2d** if the land is owned/managed by a London Borough Council.

Legislation

This application is made under:

- Section 38: Commons Act 2006 for land which is:-
- registered common land
 - other land (e.g. registered town or village green) to which Section 38 applies
- Section 23: National Trust Act 1971
- Article 12: The Greater London Parks and Open Spaces Order 1967

SECTION A – The common land

1. Name and full address of common	Central Parks Southampton City Centre (across several SO14 Postcodes)
CL no or VG no	Central Parks CL3
Commons Registration Authority (Usually the county council or unitary authority)	Southampton City Council

SECTION B1 – The applicant

2. Forename	Kate
Surname	Martin
Organisation (if appropriate)	Southampton City Council
Title (Mr/Mrs/Miss/Dr)	Ms
Full Postal Address	Executive Director Place, Civic Centre, Municipal, Floor 1

Postcode
Telephone No/Mobile
E-mail address

3. Do you prefer to be contacted by Post E-mail
(ignore if you are using an agent)

SECTION B1a – The agent (where relevant)

3a. Forename
Surname
Organisation (if appropriate)
Title (Mr/Mrs/Miss/Dr)
Full Postal Address
Postcode
Telephone No/Mobile
E-mail address

Do you prefer to be contacted by Post E-mail

SECTION B2 – The owner of the common land

4. Forename
Surname
Organisation (if appropriate)
Title (Mr/Mrs/Miss/Dr)
Full Postal Address
Postcode
Telephone No/Mobile
E-mail address

SECTION C – Area of common and common rights

5. What is the total area of the common as registered?

38 Hectares

What common rights, if any, are registered? (e.g. number and type)

The right by Hampshire County Council to dig marl over part of the land comprised in this Register.

Are the common rights ever exercised?

Yes

No

6.

If yes, please give details e.g. which commoners are active, which rights are exercised and how frequently?

HCC have written to say that they have no intention of "digging for marl" in the Grade II* registered parks. (Copy appendix 1)

7. Give details of any relevant leaseholders, other occupiers, those holding any relevant charges or those with rights of access over the land.

N/A

SECTION D1 – The proposal

8. What works are proposed? (tick **all** that apply)

- fencing
- building(s)
- other structures(s)
- ditch(es), trench(es), embankment(s)
- sealed paths, roads or tracks (e.g. concrete or tarmacadam)
- other works, please specify:

25 square meters of green rubber crumb path and a total of 298m (of C. 600mm height), of bespoke knee-rail across 3 locations to combat wear and compaction being caused by "Walk-off" aka. "Desire Lines" across grassed areas, directing foot traffic to existing macadam paths.

9. Are the proposed works permanent or temporary?

- permanent
- temporary
- mixed permanent and temporary

If temporary, how long will they be needed?

10. Is this application, or any part of it, for works that have already been carried out?

Yes No

11. Describe the proposed works below, including the area (in square metres) that they will occupy. Please include details such as materials to be used and dimensions of all structures. Make clear which works are permanent, which are temporary, and which works, if any, have already been carried out. (If the works are only for fencing go straight to Section D2)

Palmerston Park: Permanent 46m x 600mm(H) extension of existing knee rail. This is a bespoke in steel rail system finished in grey. (See WO-DWG3)

East Park (north east corner), Permanent 73.5m x 600mm(H) of bespoke "Organic" design steel knee rail (See WO-DWG4)

East Park (south) 25 sq m of Permanent bound rubber crumb surfaced path connecting the new Park Walk entrance to the central avenue path.

West Park: Permanent 178.65m x 600mm(H) of bespoke "Organic" design steel knee rail (See WO-DWG5)

12. Explain why the proposed works are needed and how they fulfil the criteria set out in Section 39 of the Commons Act 2006. If the proposed works include fencing, please also complete section D2.

There are a number of site across the Central Parks common land where people are taking short-cuts across grassed areas rather than using the existing macadam paths. Apart from looking unsightly, these mud paths create soil erosion and soil compaction over tree root zones, which is detrimental to the health and longevity of the trees. It also leads to surface flooding and eroded paths often reveal subterranean stones which create a trip hazard and make the short cut unsafe. Once the path has been established more people are drawn to using it which exacerbates the problem.

We have found that a knee rail is usually enough to encourage path use. Although they can be stepped over, it stops all cycles and enough foot traffic to allow the grass to recover and cope with the remaining light foot traffic, with some remedial turf renovation and decompaction.

In East Park (south) we are proposing a bound rubber-crumb path to connect the Park Walk entrance and the central path. Although we would prefer knee rails, the rails would need to extend so far in either direction to prevent creating new desire lines, that the action would impede free movement across the park to such an extent that the path is the better option. The choice of the material for the path is to differentiate it from the historic path layout and maintain the integrity of the original design heritage. It will be open textured and as such it will be free-draining across its surface.

With reference to the Section 38 of the Commons Act 2006; These measures are required for the conservation of the landscape; They are in the interests of directing the public to safe access paths; These actions increase the amount of quality green open space visitors have access to, currently lost to circa. 1,236 square metres of eroded mud tracks; The measures preserve the historic layout of these Historic England registered Grade 2 star parks while facilitating repair of the turf loss and guarding against future damage.

13. Give details of any measures proposed to mitigate the visual impact of the works and, where appropriate, the way in which the common will be restored once the works are completed if consent is granted.

We have considered the comments from the informal consultation. The use of knee rails (rather than full height railings), allows uninterrupted views across the park and has little visual impact. This maintains their open aspect while still addressing the damage issues. Once in place we can treat the damaged areas by injection of nitrogen gas at pressures up to 50 bar to a depth of 750mm, creating fissures within the soil layers, relieving compaction and aerating the soil. This can be followed by the injection of soil nutrients and bio-char to improve the soil environment. This will benefit the trees and give them the best chance for prolonged healthy life. This is particularly important in West Park as the row of Horse Chestnuts form some of the original planting and structure of the Victorian layout. This would be followed by scarification and over-seeding with a shade tolerant grass mix to restore the sward. These remedial works will only be successful if we can prevent ongoing compaction caused by the walk-off areas. When the works are complete it will increase the undisturbed places where people can sit and relax on the grass without finding themselves on a busy thoroughfare. In East Park (south) we are proposing a green coloured bound rubber-crumb path to connect the Park Walk entrance and the central path. Although we would have preferred to use knee rails, the rails would need to extend so far in either direction to prevent creating new desire lines, that the action would impede free movement across the park to such an extent that the path is the better option. The choice of the material for the path is to differentiate it from the historic path layout and maintain the integrity of the original design heritage. The path will be of an open textured construction and as such it will be free-draining across its surface.

SECTION D2 – Where the proposed works include fencing (temporary and permanent)

(If your proposal does not include fencing, go straight to Section E)

14. Please give details of the type(s) of fence proposed, including the height and length, the area (in square metres) it will enclose and the materials used.

Despite the higher costs involved, the knee rails will all be bespoke to fit in with the existing design palette of the Parks. In the case of Palmerston Park it will just require an extension of existing knee rails, and this extension will be of the same design and finish. (WO-DWG3) In the case of West Park and the northern corner of East Park we will be commissioning more of the "Organic" rail design used elsewhere in West Park (WO-DWG 5), and in East Park (WO-DWG 4). This also fits with our designation of West Park's distinct character as the "Art Park", and relates to the existing sculptures and its proximity to the Southampton Gallery.

15. Please explain why the fencing is needed and how it fulfils the criteria set out in Section 39 of the Commons Act 2006. This should cover: why fencing of this type is needed, what the aim of the fencing is, and why it is the length proposed. You should also explain what other types of fencing, if any, have been considered and rejected. If you are applying for permanent consent please explain why temporary consent is not appropriate.

As explained in earlier sections, the purpose is to protect the turf, trees and the original layout of the parks. We considered extending the perimeter railings which enclose three sides of West Park. The reasons for rejecting this option are the height and the prohibitive costs. The bespoke Victorian style railings are mounted on shaped limestone plinth footings. The trees in West Park are showing stress from compaction, so we are keen to avoid extensive footings on the periphery of their canopies. Further to this, it would create a visual barrier between the park and the Civic Centre Gallery and Library entrance and facade. The use of the less visually intrusive knee rail controls the costs, avoids extensive excavation of footings and maintains the important perceived link with the Civic Centre. At the other sites we only considered knee rails as they are the least visually intrusive, they fit with the existing fence design palette and they offer an affordable solution to the prevention of further damage. The lengths of the rail runs are as short as we think we can effectively install without creating a new desire line where it ends. We have a dual objective to resolve the damage issue without spending any more than we have to in order to resolve it. Consequently we have extended the knee-rail runs to try to guide foot fall to existing macadam paths. Loss of the short-cuts made across the turfed areas will only add a negligible amount of time to their journeys. The existing path networks are wholly adequate for traversing the parks.

16. Please say what other measures (if any) you have considered (i.e. alternatives to fencing) and explain why these are not suitable.

We did consider formalising the all of the paths with macadam, however this conflicts with our policy to avoid or minimise any loss of green open space; Further, it would detract from the object of the Grade2* registration, as a surviving 19th century park layout, changing it to a "Union Jack" style network of paths with additional ambiguous arcs and lines. This would demote the grassed and planted areas to path verges.
It would be detrimental to the trees. All of the proposals occur within the construction exclusion zones beneath the canopies of the existing trees.
Macadam paths do not contribute to the natural environment, or offer any of the atmospheric pollutant sequestration services offered by turf and trees. Neither do they contribute to alleviating flood events.
In the City Centre, we are looking to increase living green space rather than decrease it for the eco-services they provide.
We have also been guided by the comments received from the informal consultation.

17. Give details of any measures proposed to mitigate the visual impact of the fencing.

The use of knee rails allowing views over them and using the existing fencing palette will reduce the visual impact.
Using the artistic "Organic" rail will be a visual improvement adding interest to the boundary.

18. Give details of the number, type and location of stiles, gates, gaps or other means of access.

The knee rails will direct footfall towards the existing paths. The entrance to all existing paths will be open and without gates or stiles.

SECTION E – Planning permission

19. a) Is planning permission needed for your proposal?

Yes No

b) If yes, has planning permission been given?

Yes No

If yes to b), please enclose a copy of the planning permission.

Copy enclosed.

SECTION F – Designations

20. Is the proposal in or near a Site of Special Scientific Interest (SSSI), a Special Area of Conservation (SAC) a Special Protection Area (SPA), or a wetland listed in accordance with the Ramsar convention? Yes No

If yes, please give details and identify this area on the map (see Section J).

21. Will the proposal affect a Scheduled Ancient Monument (SAM)? Yes No

If yes, please give details and identify the location of the SAM on the map (see Section J).

Central Parks are Historic England Grade two star registered. To see listing: (<https://historicengland.org.uk/listing/the-list/list-entry/1001323>) See WO-DWG 7

22. Is the proposal in a National Park? Yes No

If yes, please give the name of the National Park.

- Is the proposal in an Area of Outstanding Natural Beauty (AONB)? Yes No

If yes, please give the name of the AONB.

- Will the proposal affect an area of special landscape value or World Heritage Site? Yes No

If yes, please give details and identify the area on the map (see Section J).

SECTION G – Existing works and adjacent common land

23. Are there any existing buildings, roads, fences or other constructions on the common? Yes No

If yes, please give details. Please also identify these on the map (see Section J).

It is a City Park and has quite a lot of fencing. I have shown it on WO-DWG6 attached. There are also three pavilions (one including a cafe), skatepark, multi-use games area, mini-golf course, hard surface tennis courts, various monuments, art installations and statues including the Cenotaph and Titanic Engineers memorials, civic fountain, rockery, pergola and mosaic garden. The Common is divided by six roads, with highways enclosing the open space on all boundaries.

24. Does any area of common land or village green of a different registration number adjoin the common on which the works are proposed? Yes No

If yes, please give details. Please also identify the boundaries on the map (see Section J).

Section H – Procedure

25. Most applications are determined by the written representation procedure. However, we may decide that a site inspection by an Inspector is needed. Where we decide that there should be a site inspection the Inspector will usually visit the site unaccompanied.

Do you wish to be present or be represented at the site visit? Yes No
If yes, please suggest a suitable meeting place.

Not necessary but happy to meet on-site if preferred.

SECTION I – Advertisement and consultation

26. **You must advertise your proposal** in one main local newspaper and at the main points of entry to the common (or, if there are none, at a conspicuous place on the boundary of the common). Use the draft notice at **Annex A** of the **Notes**.

27. You must also send a copy of the notice (using the letter at **Annex C, C1** or **C2** of the **Notes**) to the following:

- the owners of the land (if different from the applicant)
- the commons council or commoners' association (if there is one)
- all active commoners
- others with a legal interest e.g. tenants, those with easements, or other rights over the land and any other person occupying the land

- the Parish Council
- the relevant Commons Registration Authority (usually the county council or unitary authority), District or Borough Council
- Natural England (Please send only to enquiries@naturalengland.org.uk)
- Historic England
- National Park Authority (if the proposal is in a National Park)
- AONB Conservation Board or Joint Advisory Committee (if the proposal is in an AONB)
- Open Spaces Society
- the local authority archaeological service

28. Which newspaper has the advertisement appeared in?

Hampshire Independent

On what date?

4/06/2021

On what date will the

02/07/2021

representation period end?

This date must be at least 28 days from the date the application is advertised. Incorrect notices are a common problem and may result in you having to re-advertise, so please read Section I of the Notes carefully.

Section J – Maps

29. Please enclose two copies of the map that meets the requirements set out in Section J of the Notes. The map should show everything required by sections F and G of this form, and it must clearly show what you are proposing to do and where. **Incorrect or unclear maps are a common type of problem with applications for works, so please read Section J of the Notes carefully.**

Section K – Checklist (tick to confirm)

30. For all applications:

- I have read the relevant Notes and Guidance Sheets.
- I have answered all the questions on this form in full (where appropriate.)
- I have enclosed a map (2 copies) that meets the requirements of Section J of the Notes.
- I have enclosed a copy of the commons register in respect of this common, where registered, i.e. details of the land, rights, ownership and the register map.
- I have enclosed a copy of any document mentioned in answering the questions on this form (e.g. planning permission, etc.)
- I have completed and enclosed a copy of the health and safety questionnaire
- I understand that any of the application papers may be copied to anyone who asks to see them.

31. For Section 23 (National Trust Act 1971) only:

~~I have enclosed a letter from the National Trust confirming its view that the proposed works are "desirable" under Section 23(1)~~

32. I have:

- Advertised the proposal in one local newspaper
- Posted a copy of the notice at the main entry points to the common
- Sent a copy of the notice to all those listed at Section I
- Placed a copy of the notice, map and application at the inspection point
- Enclosed the letter, based on the example at Annex D of the Notes, confirming that the advertising requirements have been met.

Signed



Name

Kate Martin

Date

12/05/2021

You should keep a copy of the completed form.

General Data Protection Regulation

Your application will be in the public domain. Therefore all documents (both paper and electronic) associated with it may be disclosed during the application process to others, including other Central Government Departments, public bodies, local authorities, other organisations and members of the public.

For information about how we process the information you provide please see Common Land Guidance Sheet 13: Privacy Policy at the link below.

<https://www.gov.uk/government/publications/common-land-guidance-sheet-13-privacy-policy>

