

**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  
3A Temple Quay House  
2 The Square  
Temple Quay  
Bristol  
BS1 6PN

Tel: 0303 444 5637

E-mail:  
[commonlandcasework@planninginspectorate.gov.uk](mailto: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 (see Note 1)

1. Name and full address of common

Ugthorpe Common, Ugthorpe, Whitby, North Yorkshire

CL no or VG no

137

Commons Registration Authority (Usually the county council or unitary authority)

North Yorkshire County Council

## SECTION B1 – The applicant

2. Forename

Constantine

Surname

Normanby

Organisation (if appropriate)

Mulgrave Estate

Title (Mr/Mrs/Miss/Dr)

Marquis

Full Postal Address

Estate Office,  
Lythe,  
Whitby  
North Yorkshire

Postcode

YO21 3RJ

Telephone No/Mobile

01947 893239

E-mail address

john.beech@mulgrave.net

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

Post

E-mail

### 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

Constantine

Surname

Normanby

Organisation (if  
appropriate)

Mulgrave Estate

Title (Mr/Mrs/Miss/Dr)

Marquis

Full Postal Address

Estate Office,  
Lythe,  
Whitby  
North Yorkshire

Postcode

YO21 3RJ

Telephone No/Mobile

01947 893239

E-mail address

john.beech@mulgrave.net

**SECTION C – Area of common and common rights (See Note 2)**

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

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

The rights to graze 1472 Ewes and followers and rights to cut and take peat, a right to take top stones, sand, gravel and bracken from the whole of the land comprised in this registered unit.

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?

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

**SECTION D1 – The proposal (See Note 3 - 6)**

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:

9. What area (in square metres) will the works occupy or the fencing enclose?

573700

How long (in metres) will the works/fencing be?

5289m

10. Are the proposed works permanent or temporary?

- permanent
- temporary
- mixed permanent and temporary

If temporary, how long will they be needed?

10 years which is the length of the Countryside Stewardship agreement we have signed

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

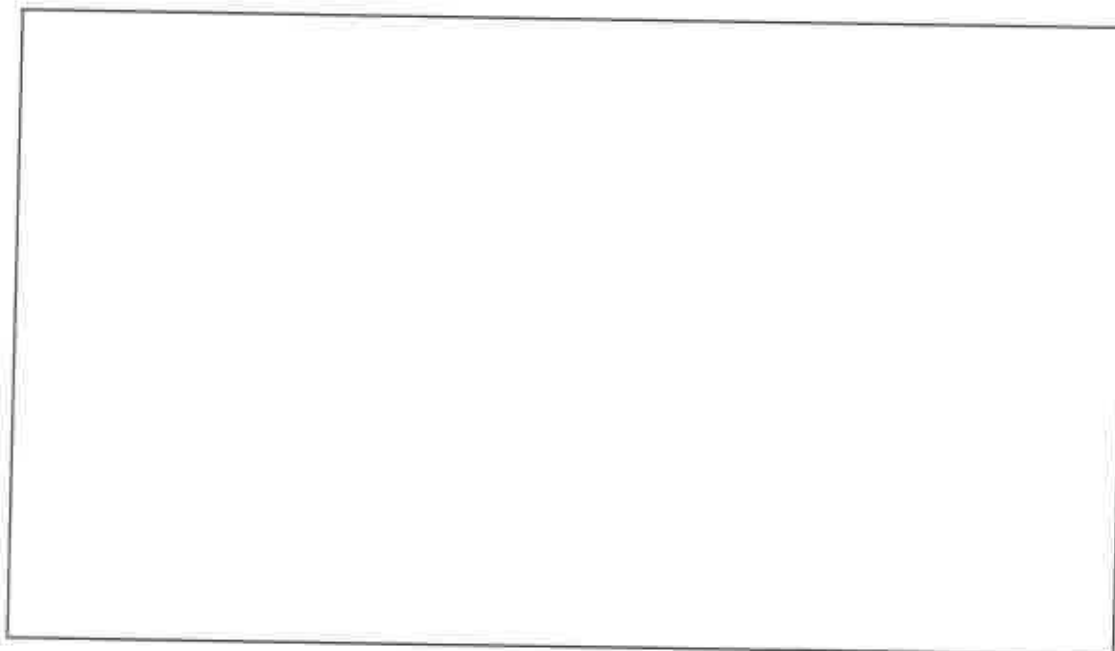
Yes  No

12. Describe the proposed works below and make clear which works, if any, have already been carried out. (If the works are only for fencing go straight to Section D2)

3704m of fencing have been installed (western side of the Common). This was replacing mostly existing fencing with new fencing

1585m is left to install (eastern side of the common). This will be new fencing as no current fencelines exist.

13. 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.



14. Give details of any measures proposed to mitigate the visual impact of the works.

**SECTION D2 – Where the proposed works include fencing (temporary and permanent) (See Note 6)**

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

15. Please give details of the type(s) of fence proposed, including the height and the materials used.

Standard sheep net fence as prescribed by our Countryside Stewardship specifications which is attached to this application

16. 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.

Currently the Common is not grazed by livestock and consists of SSSI / SAC heather moorland habitat within the North York Moors National Park. The Common is becoming degraded in areas due to natural succession of invasive scrub, gorse and trees. Over time the moorland habitat will be lost to this process. To ensure the moorland is kept free of encroaching scrub a programme of conservation grazing is being implemented which is supported by a Countryside Stewardship agreement from Natural England (signed in 2018). Parts of the Common have been fenced previously and we have undertaken works to replace the existing redundant fencing (which was not stockproof) on the western area of the Common. However, we need to fence the eastern side of the Common which has no current fencing on it. Without the fencing the Common would not be grazed as the Common is adjacent to the main A171 road that bisects the Common and it would be irresponsible to introduce livestock where no fence exists on the Common.

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

No alternatives to livestock fencing have been considered as the land is adjacent to a main road as previously mentioned.

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

The fence lines will be set back to a minimum of 3 metres from the roadside and will become part of the landscape in future years. The moor on either side of the A171 to the north and south of the Common is fenced with identical livestock fencing and does not look 'out of place' in the landscape.

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

All gates and stiles that are currently in place will be replaced with new items in exactly the same locations. We will be replacing the stiles with new kissing gates to enable easy access to the Common. We recognise that as well as having Common access rights, the Moor is also open access land under the CROW Act. The Common has a number of public rights of way across it and the access furniture will stay in situ

### SECTION E – Planning permission (See Note 7)

20. 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 (See Note 8 – 9 and Guidance Sheet 8)**

21. 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).

North York Moors SSSI and SAC

22. 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).

Loose Howe scheduled ancient monument

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

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

North York Moors 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 (See Note 10)**

24. 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).

Fencelines

25. 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 – Advertisement and consultation (see Notes 11 - 14)

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) within 7 days of making your application. 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 relevant Commons Registration Authority (usually the county council or unitary authority), District or Borough Council and Parish Council (where known)
- 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 will the advertisement appear in?

Whitby Gazette

On what date?

12 September 2019

On what date will the representation period end?

10 October 2019

**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 note 11 carefully.**

## Section I – Maps (See Note 15)

29. Please enclose two copies of the map that meets the requirements set out in Note 15. 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 note 15 carefully.**

## Section J – 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 Note 15.
- 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 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 will, as soon as possible:

- Advertise the proposal in one local newspaper
- Post a copy of the notice at the main entry points to the common
- Send a copy of the notice to all those listed at Section H
- Place a copy of the notice, map and application at the inspection point
- Write to you using the letter at Annex D of the Notes, to confirm that the advertising requirements have been met.

Signed

Name

Date

**You should keep a copy of the completed form.**

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### 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>

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