



## **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: [commonlandcasework@planninginspectorate.gov.uk](mailto:commonlandcasework@planninginspectorate.gov.uk)

Where possible, please send in your application by e-mail. If you are unable to submit your application by email and require a postal address please telephone: 0303 444 5625 or 5177.

Please ensure you refer to the current Notes for making an application when completing this form and advertising your proposals. Failure to do so may delay your application and you may be asked to re-advertise if you do not follow the current guidance in full.

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- **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. You should satisfy yourself that, under the terms of any scheme, consent under section 38 of the Commons Act 2006 is needed for the proposed works. If you are in any doubt you should seek your own legal advice.
  - Read **Guidance Sheet 2d** if the land is owned/managed by a London Borough Council.
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## 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 | Land known as Coniston Fell, Dunnerdale Fell, Seathwaite Fell and Torver High Common (Lancashire) |
|------------------------------------|---|

CL no or VG no	CL29
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Commons Registration Authority (Usually the county council or unitary authority)	Westmorland and Furness
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## SECTION B1 – The applicant

2. Forename David
- Surname Hatton
- Organisation (if appropriate) Dunnerdale, Seathwaite and Torver Common Commoners
- Title (Mr/Mrs/Miss/Dr) Mr
- Full Postal Address Knott End Farm, Broughton Mills, Broughton-in-Furness, Cumbria LA20 6AZ
- Postcode LA20 6AZ
- Telephone No/Mobile 07712 826049
- E-mail address davidkef1390@gmail.com
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 Rigby
- Surname Jerram
- Organisation (if appropriate) Rigby Jerram Ecological Consultants
- Title (Mr/Mrs/Miss/Dr) Mr
- Full Postal Address 4 Bankfield  
Kendal  
Cumbria
- Postcode LA9 5DR
- Telephone No/Mobile 01539 726618 or 07721 028899
- E-mail address rigby@jerramecology.co.uk
- Do you prefer to be contacted by  Post  E-mail

## SECTION B2 – The owner of the common land

4. Forename James  
Surname Pennefather

Organisation (if appropriate)

Title (Mr/Mrs/Miss/Dr) Mr

Full Postal Address

Postcode

Telephone No/Mobile

E-mail address [pennefatherjames@gmail.com](mailto:pennefatherjames@gmail.com)

**NOTE:**

Mr Pennefather is the owner of the part of the common over which this section of fence runs. Other parts of the common are owned by Crown Estates, National Trust and Mr Le Fleming (see ownership map in Maps pdf).

## SECTION C – Area of common and common rights

5. What is the total area of the common as registered? 4,552.5ha

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

55 rights of pasture for sheep, cattle and horses

49 Estovers

26 other rights (17 turbary, 8 stone/pinnel, 1 herbage)

6. Are the common rights ever exercised?  Yes  No

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

The following commoners are currently actively grazing the common:

Victor/Sam Inman: sheep on an annual basis

Mark Cooper: sheep and cattle on an annual basis

Bob McCartney: sheep on an annual basis

Les Richards: sheep on an annual basis

David Hatton: sheep on an annual basis

Arthur Johnson: sheep on an annual basis

Stephen Gorst: sheep on an annual basis

Brian Wilson: sheep on an annual basis

Richard Clegg: sheep on an annual basis

Kevin Wrathall: sheep on an annual basis

Gary Brockbank: sheep on an annual basis

Kirkby & Longworth: : sheep on an annual basis

Anthony Hartley: sheep on an annual basis

Stephen & Ann Hoggarth: sheep on an annual basis

If no, what steps have you taken to ensure/ascertain that no rights of common are being exercised over the common land? (see Section J of the Notes for making an application before answering this question).

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

Hound Trailing Association: right to run hound trails

## 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:

9. Are the proposed works permanent or temporary?

- permanent
- temporary
- mixed permanent and temporary

If temporary, how long will they be needed?

15 years (from original permission date)

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

Yes       No

See photographs in accompanying *Photographs* pdf

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)

Retrospective application for fencing

12. Explain why the proposed works are needed, how they fulfil the criteria set out in Section 39 of the Commons Act 2006, what alternative measures (if any) you have considered (i.e. alternatives to carrying out works on common land) and why these are not suitable. If the proposed works include fencing, please also complete section D2.

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.

## **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.

1,688m length of 1.2m high sheep netting topped by two strands of barbed wire and wooden fenceposts enclosing an area of 137ha. This replaces the original application's 1,556m length of the same fencing, which would have enclosed 140ha of common land.

The eastern 815m of the fence follows the approved line, the deviation from the approved line is 873m in length.

The fence includes two wooden field gates and four wooden stiles.

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.

A Section 38 Commons Act (2006) application for fencing on Coniston Fell, Dunnerdale Fell, Seathwaite Fell and Torver High Common (Lancashire) (CDST) was made on 30<sup>th</sup> April 2020 and approved on 14<sup>th</sup> January 2021 (Ref: COM/3251944).

The fencing is required as part of a Countryside Stewardship Agreement which includes the restoration of extensive tree and scrub habitat on the common through the creation of seven enclosures. When it came to erecting the fence to create the Raven's Crag enclosure it became apparent that in bad weather the agreed fenceline route had potential to direct livestock over the edge of the Stainton Ground Quarry void. To prevent this occurring the fence was rerouted around the south side of the knoll on the south-east side of the quarry, rejoining the approved line on the west side of Stephenson Haw

This is a retrospective application for the deviation from the approved fenceline.

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

Two alternative fencelines were considered, one which went over the top of the knoll to the east of the quarry and one which went around the south of the knoll. The latter was chosen as it would be less visually intrusive and was also on better (less rocky) ground for fencing (see H & H map in Maps pdf). The do nothing option, that is build the approved fenceline, was not considered to be viable as it would have led to the death of livestock.

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

The fenceline chosen goes around a small knoll rather than over the top of it, reducing the visual impact of the fence. The built version of the fence is slightly less visually intrusive than the approved line as it is more hidden from view.

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

The fence includes two wooden field gates and four wooden stiles (see photographs pdf and Map 4).

## 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. Could the proposal affect 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 K).
- 20a. Is the proposal directly connected with the conservation or management of the SAC, SPA, or Ramsar site(s) identified? Yes  No
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 K).  
There is a single Scheduled Monument within one kilometre of the fence: *Cairns on Kiln Bank 1/6 to 1/2 mile (270m-800m) SSE of Far Kiln Bank Farmhouse*. This Scheduled Monument is 230m west of the fence and has not been impacted by its construction.
22. Is the proposal in a National Park?  Yes  No  
If yes, please give the name of the National Park.  
Lake District National Park
23. Is the proposal in a National Landscape (formerly known as Areas of Outstanding Natural Beauty - AONB). Yes  No  
If yes, please give the name of the National Landscape.

24. With regard to the Protected Landscape Duty, will the proposal affect the landscape of a National Park, National Landscape, 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 K).

Whilst the built fence is slightly longer than the approved alignment it is slightly less visible in its mid section, such that the modified alignment has a negligible effect on the landscape and visual impacts of the fence as assessed for the original s38 application. The 2021 Inspector's conclusion on the impacts on Conservation of the Landscape were:

"Taking account of the overall purpose of the works and the intended outcomes which would flow from the erection of a temporary fences I consider that whilst there will be a visual impact arising from the fences and gates, this will be for a limited period in landscape terms. I am satisfied that the short-term visual impact is outweighed by the long-term conservation and flood risk management objectives of the scheme, which will deliver landscape improvements over a much longer period and assist in maintaining and enhancing the agro-pastoral landscape for which the Lake District WHS is celebrated."

## **SECTION G – Existing works and adjacent common land**

25. 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 K).

The fences for the other exclosures forming part of the COM/3251944 application have been erected. These are shown on Map 1.

26. 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 K).

CL56 Land forming part of Torver High Common (Lancashire)  
CL76 Little Langdale Common  
CL143 The Cove (Lancashire)  
CL145 Long House Close (Lancashire)  
CL216 Yew Pike (Lancashire)  
CL240 Land east of Walney Scar Quarries (Lancashire)  
CL241 Part of Dunnerdale Fell (Lancashire)

## Section H – Public access

27. Do the public have a right of access to the common for air and exercise under section 193 of the Law of Property Act 1925?  Yes  No

28. Will the works exclude (rather than simply restrict) any right of access under section 193 of the Law of Property Act 1925?  Yes  No

## Section I – Procedure

29. 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.

## SECTION J – Advertisement and consultation

30. **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**.

31. 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

those parties informally consulted before the application was submitted

the Parish Council and the District/Borough Council, where applicable

the relevant Commons Registration Authority (usually the county council or unitary authority)

Natural England (Please send the application form, map and notice to [commonland@naturalengland.org.uk](mailto:commonland@naturalengland.org.uk))

Historic England

National Park Authority (if the proposal is in a National Park)

National Landscape Conservation Board or Joint Advisory Committee (if the proposal is in a National Landscape)

Open Spaces Society (Please send only to [office2@oss.org.uk](mailto:office2@oss.org.uk))

British Horse Society (only where the common is subject to public rights of access under the Law of Property Act 1925)

the local authority archaeological service

32. Which newspaper has the advertisement appeared in?  
On what date?

On what date will the 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 J of the Notes carefully.**

## Section K – Maps

33. Please enclose a copy of the map that meets the requirements set out in Section K 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 K of the Notes carefully.**

## Section L – Checklist (tick to confirm)

34. 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 that meets the requirements of Section K 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. ✓

35. 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)

36. 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 J ✓
- 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

Rigby Jerram

Date

16<sup>th</sup> February 2026

**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.

### How we use your information

The Planning Inspectorate takes its data protection responsibilities for the information you provide us with very seriously. To find out more about how we use and manage your personal data, please go to our [privacy notice](#).

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