



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:

E-mail: 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 5340.

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.

-
- **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.
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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 | Saddleback Common,
Mungrisedale Common and
Two tracts of land known as Carrock Fell and
Mungrisedale Fell (Cumbria) |
| CL no or VG no | CL66, CL293 and CL60 |
| Commons Registration Authority (Usually the county council or unitary authority) | Cumberland Council |

SECTION B1 – The applicant

2. Forename Peter
- Surname Wilson
- Organisation (if appropriate) Mungrisdale, Saddleback and Bowscale Commons Association
- Title (Mr/Mrs/Miss/Dr) Mr
- Full Postal Address Cragg Foot, Mungrisdale, Penrith, Cumbria
- Postcode CA11 0XR
- Telephone No/Mobile 07876 452858
- E-mail address craggfoot@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

4.1 Common CL 60: Two tracts of land known as Carrock Fell and
Mungrisedale Fell (Cumbria)

Forename

Surname

Organisation (if
appropriate)

Dalemain LLP

Title (Mr/Mrs/Miss/Dr)

Full Postal Address

Dalemain Estate Office Dalemain,
Penrith, Cumbria

Postcode

CA11 0HB

Telephone No/Mobile

017684 86450

E-mail address

estateadmin@dalemain.com

4.2 Common CL66: Saddleback (Cumbria)

4. Forename

Surname

Organisation (if
appropriate)

Lonsdale Settled Estate

Title (Mr/Mrs/Miss/Dr)

Full Postal Address

Glebe House, Lowther, Penrith, Cumbria

Postcode

CA10 2HH

Telephone No/Mobile

01931 712 671

E-mail address

info@lonsdale-estates.co.uk

4.3 Common	CL293: Mungrisedale Common (Cumbria)
4. Forename	Murray
Surname	Neville Howard
Organisation (if appropriate)	
Title (Mr/Mrs/Miss/Dr)	Mr
Full Postal Address	Greystoke Castle, Greystoke, Penrith, Cumbria
Postcode	CA11 0TG
Telephone No/Mobile	017684 83722
E-mail address	-

SECTION C – Area of common and common rights

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

CL 60: Two tracts of land known as Carrock Fell and Mungrisedale Fell (Cumbria)	439.5 ha
CL66: Saddleback (Cumbria)	1,082.83 ha
CL293: Mungrisedale Common (Cumbria)	1,235.25 ha

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

CL 60: Two tracts of land known as Carrock Fell and Mungrisedale Fell (Cumbria):
Rights of pasture (sheep, cattle and horses): 18
Turbary: 7

CL66: Saddleback (Cumbria):
Rights of pasture (sheep, cattle and horses): 24
Bracken: 1
Sand: 2
Gravel: 2
Turbary: 1

CL293: Mungrisedale Common (Cumbria):
Rights of pasture (sheep, cattle and horses): 18
Turbary: 1

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?

Rights of pasture are exercised through grazing of sheep throughout the year on all three commons by the following farms:

CL60: Low Beckside (270 ewes max), Low Mill Farm (360), Undercragg (490)

CL66: High Row Farm (108 ewes max), Wescoe Farm (700 ewes max), Burns Farm (320 ewes max), Gate Ghyll (340 ewes max)

CL293: Lowside (800 ewes max), Undercragg (490 ewes max), Low Beckside (270 ewes max), Souther Fell (305 ewes max), High Beckside (420)

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

None

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?

Fifteen years

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)

The application is for the renewal of the existing permission for seven temporary fenced enclosures on the commons which was granted in 2008.

The enclosures are to protect five areas of woodland planted in 2009, an area of rare high altitude oak woodland and a stand of juniper scrub from sheep grazing.

Fence Lengths and Areas			
Common	Exclosure	Fence Length (m)	Area Enclosed (ha)
CL60	Swineside juniper	1,318	11.1
CL66	Roughten Gill	2,582	17.9
CL66	Glenderaterra North	1,216	5.0
CL66	Glenderaterra South	473 *	2.1
CL293	Southern Fell	883 *	11.3
CL293	Glenderamackin	2,684	14.6
CL293	Young Wood	2,071	14.0

* Excludes common boundary

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.

Natural England consider that further time is required to allow the woodland to become established and capable of withstanding sheep grazing once the fences are removed. Further details can be found in Natural England's 2023 review of the scheme and Northern Habitats 2023 assessment of the progress of the woodland exclosures which accompany this application.

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.

Please see the 2008 proposal document which accompanies this application. Once the fifteen year period has expired all fencing materials, gates and stiles will be removed from the commons.

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.

The fences will be 1.2m high with sheep netting topped by one strand of plain wire. Posts will be wooden.

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CL293	Young Wood	2,071	14.0

There will be a series of pedestrian gates and stiles to allow the public to access the fell either side of the fences. All gates and stiles will be compliant with BS5709.

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.

To achieve the SSSI and SAC conservation objectives the fencing will continue to exclude livestock from grazing one of two remaining areas of rare juniper scrub. The slow growing young and pioneer juniper plants are specifically targeted by browsing sheep which prevents recruitment of young plants to stands of juniper subject to sheep grazing bringing the long term survival of juniper stands on the common in to question.

In the absence of fencing there was little evidence of natural regeneration of oak and other trees in Young Wood, which is the highest oak wood in the UK. Since the wood has been fenced oak saplings have become established within the enclosure. Continuing to excluded sheep from the wood will allow further recruitment of young trees toto the woodland and help to expand the extent of the woodland. The saplings which have appeared during the first period of exclosure will benefit from a further 15 years of growth making them more resistant to sheep grazing once the fence is removed. The presence of young trees in the woodland is essential for the wood to meet the SSSI and SAC conservation objectives.

The objective of the fencing around the five areas of new woodland planting is to protect the young trees from grazing and allow them to grow to a size where they will be resistant to sheep grazing once the fences are removed. Due to the climate and poor soils on the commons trees are slow growing and inspection of the trees by Northern Habitat and Natural England in 2023 has confirmed that protection from grazing for a further 15 years is required to ensure the success of the woodland creation scheme in the long term. There is a significant risk that if the fencing were to be removed now there would be significant loss of the planted trees such that little benefit would be seen to have resulted from the 15 years of reduced access to these areas and the input of public funds to this project.

Please also see the 2008 proposal document, Natural England 2023 Review and Natural England World Heritage Site Assessment which accompany this application

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

The stock reductions are currently in place on the commons as part of a Countryside Stewardship Scheme. These benefit heathland and mire communities but not the upland woodland and juniper scrub vegetation. To reduce grazing levels to such an extent that woodland and scrub habitats would benefit would prove to be very expensive to the public purse and would threaten the continuation of the common land grazing system of these commons. This grazing system is one of the defining features of the English Lake District World Heritage Site and loss of this system on an area as large as these commons would constitute a significant detrimental impact on the World Heritage Site. The use of relatively small fenced enclosures is considered to achieve a balance between agricultural and world heritage objectives on one hand and ecological objectives on the other.

No Fence GPS collars have been considered as an alternative to fencing, however it is not currently financially viable to use these for sheep on upland commons as the numbers of collars required is very large (1,000+ in this case), with each collar having both a purchase cost and an annual subscription cost which amounts to tens of thousands of pounds for a flock. It is also not certain that the collars will work with hill breeds of sheep due to the thick fleece.

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

Please see the 2008 proposal document which accompanies this application.

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

Gate and stile locations are shown in the maps in the Summary report by R Jerram which accompanies this application.

Numbers of Gates and Stiles				
Common	Exclosure	Pedestrian gates	Farm Gates	Stiles
CL60	Swineside juniper	2	1	2
CL66	Roughten Gill	3	1	2
CL66	Glenderaterra North	3	1	2
CL66	Glenderaterra South	1	1	-
CL293	Southern Fell	3	1	2
CL293	Glenderamackin	4	1	2
CL293	Young Wood	3	1	2

Pedestrian gates will be 1.5m wide, farm gates 2.4m wide. All gates and stiles to have Open Access symbol signage and to be compliant with BS5709.

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).

The whole of all three commons except Southern Fell lie within the Skiddaw Group SSSI and Lake District High Fells SAC. These two designations are selected for their upland habitats, including upland heathland, blanket bog, flushes, upland oak woodland and juniper scrub. The SSSI is also designated for its moorland birds, including ring ouzel.

The proposal is predicted to have a positive impact on the condition of the woodland and juniper scrub interest features of both the SSSI and SAC. The proposals are also likely to have a positive impact on water quality in the River Derwent and Tributaries SSSI and River Derwent and Bassenthwaite SAC as the Rivers Glenderamackin and Glenderaterra drain the fells on which the exclosures are located and are tributaries of the River Derwent. Woodland planting and removal of sheep grazing is expected to slow run-off times and reduce soil erosion from these areas.

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).

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

If yes, please give the name of the National Park. **Lake District 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).

English Lake District World Heritage Site

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).

The only fences on the commons are the ones for which permission to remain for a further fifteen years is being applied for.

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).

CL20: Caldbeck Common

CL400: Little Calva (Cumbria)

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.

Meet in Mungrisdale at the parking area opposite the public phone box NY362 303. You can also type the following code into Google Maps to get directions: M275+GJP Penrith or use the What3Words code: careless.impaired.regal

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 (Please send only to office2@oss.org.uk)
 - ✓ the local authority archaeological service

28. Which newspaper has the advertisement appeared in? Cumberland and Westmorland Herald
On what date? 8th September 2023

On what date will the representation period end? 13th October 2023

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

Date

Rigby Jerram

7th September 2023



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.

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](#).
