COMMON LAND GUIDANCE SHEET 6

Section 38 consent: Modifications and Conditions

We can impose any modifications or conditions relating to the proposed works that we think fit so long as they are necessary, relevant, enforceable, precise, and reasonable (Guidance Sheet 7 gives advice about applications to vary or revoke modifications or conditions). So that users of the common and local residents can be certain about when the works will begin we will normally attach a condition limiting the duration of the consent to 3 years or a longer or shorter period if this seems more appropriate. Depending on the circumstances of the case, we may seek your views on any other conditions that we are minded to impose, but we are not required to do so. Other than the duration of consent condition there are no prescribed modifications or conditions, but the following gives some idea of the type of conditions that we may consider imposing:

**Fencing**
- Type, length and height of fence
- Area enclosed
- Number, type, and location of access points (with appropriate level of detail, e.g. mounting blocks for riders, provision for the disabled)
- Removal of fencing and restoration of land (when time limit reached)

**Works**
- Type of construction
- Area enclosed
- Access points
- Removal of works and restoration of land (when time limit reached)

**Time limits/Restrictions on Fencing/Works**
- Time limit for fencing/works to be in place - e.g. 5, 10, 15, 25 years
- Movable or ‘temporary’ fencing, within defined parameters, e.g.:
  - Defined part of common
  - Maximum area enclosed at any one time
  - Maximum length of time in one place
  - Maximum perimeter of common
  - Maximum proportion of common to be enclosed (e.g. 20%)
  - Type of fencing Number, type and location of gates/stiles
  - Length of time ‘temporary’ works or fencing can be in place each year, e.g. works connected with a yearly fair or fete

**Access**
- Public access to be maintained as per application
- Provision of notices informing of right of access