



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

E-mail: commonlandcasework@planninginspectorate.gov.uk

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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.
 - 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
Marlborough Common

CL no or VG no

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

SECTION B1 – The applicant

2. Forename
Richard

Surname
Spencer- Williams

Organisation (if
appropriate)
**Marlborough Town
Council**

Title (Mr/Mrs/Miss/Dr)
MR

Full Postal Address
**Council Offices,
5 High Street
Marlborough Town
Council
Wiltshire**

Postcode
SN8 1AA

Telephone No/Mobile
01672 512487

E-mail address
**townclerk@marlborough
-tc.gov.uk**

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
**Marlborough Town
Council**

Surname

Organisation (if appropriate)
Marlborough Town Council

Title (Mr/Mrs/Miss/Dr)

Full Postal Address
**Council Offices,
5 High Street
Marlborough Town Council
Wiltshire**

Postcode
SN8 1AA

Telephone No/Mobile
01672 512487

E-mail address
townclerk@marlborough-tc.gov.uk

SECTION C – Area of common and common rights

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

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

- **Public Right of access and recreation**
- **Games ; cricket, football, tennis, bowls, and other similar games**
- **Temporary parking**

6. Are the common rights ever exercised? **Yes**

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

- **Walkers/ dog walkers daily , all year round**
- **Rugby Football and Football is played and practiced weekly(2-3 times a week) by Marlborough RFC , and Marlborough Fc throughout their respective seasons.**
- **Marlborough Golf Club – daily all year (part of the Common)**
- **Marlborough Model Airplane Flying Club uses the common weekly**
- **Fairs and community events annually**
- **Park Run weekly Pigeon Liberation weekly March to September**

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

Lease holders with rights of access are;

- **Marlborough Rugby Football Club**
- **Marlborough Golf Club**

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:

To create a leveled area for rugby and football training purposes (i.e., not a marked pitch)

- **A levelled area of 120mx 80m, with new top- soil and grass seed added (estimated an average of about 4"/100mm on the "central" option and 6"/150mm on the Frees Avenue side, adjacent to existing pitches.**
- **The planting of a previously existing hedgerow along the Frees avenue side as part of mitigating biodiversity works and as a road safety measure along the border of the 'training area' parallel to Frees Avenue.**

9. Are the proposed works permanent or temporary?

permanent **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?

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)

Late August/early September 2022

- **Ground preparation , and spreading of top soil (permanent) to cover 120mx 80m, with new top- soil and (estimated an average and 6"/150mm) on the Frees Avenue side, adjacent to existing pitches.**
- **Seeding - grass seed added**

The work will take approximately one week to complete.

It will take around one year for the grass to become sufficiently well established to allow sports training to take place.

Site management during construction - the seeded area will be 'roped' off to protect it as far as possible while establishing itself. (temporary)

Mitigating bio diversity work thereafter including;

- **Implementing the "habitat enhancements" as described in the ecology report commissioned by Marlborough Town Council in order to mitigate any impact of the project on the biodiversity of the common**
- **As part of the biodiversity works and as a road safety measure, plant a hedgerow (hedge mix to be determined) along the Frees Avenue side.**

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.

Marlborough Rugby and Marlborough Youth Football Clubs (MYFC) are not-for-profit, volunteer run whose purpose is to promote sporting participation in the local community. Both clubs and wish to expand their offering to include ladies' rugby, girls' football, touch rugby & walking rugby. The rugby club currently has around 370 young players (under 18 years old) players currently registered with England Rugby Football Union (RFU); the Youth Football Club has around 430 players on their books. This is around 20% of the 3-18 years old in the Marlborough community area.

Sport is widely recognised as critical to mental and physical health but there is a desperate shortage of playing areas in Marlborough with MYFC having to train at Burbage, Great Bedwyn, Pewsey & Hungerford. Travelling long distances reduces participation due to family commitments, cost, and access to transport.

Recognising the power of sport in advancing society, 118 Member States of the United Nations (UN) have called for all States to include sport and physical activity in their recovery plans post COVID-19 and to integrate sport and physical activity into national strategies for sustainable development. In support of this aim, the clubs are requesting an additional training area of less than one hectare for use for a total of around 250 hours per year (Saturday and Sunday mornings during September to May). This total request is just over 5% of annual daylight hours. The training area will NOT be used by the Clubs during the Summer months of May, June and July and August.

After a public consultation in March/April 2021, careful due consideration by Marlborough Town Council, and the commissioning of an ecology report, the Frees Avenue site was supported in principle by Marlborough Town Council, for the creation of a levelled 'training' area. The Frees Avenue site was considered the least impactful environmentally, and also in terms of 'Commoner interest'; the Frees Avenue site ensures a corridor of uncommitted use for free access whilst the sporting pursuits are in action.

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.

Mitigating bio diversity work thereafter including;

- **Re-seeding of new top soil.**
- **Implementing the “habitat enhancements” as described in the ecology report commissioned by Marlborough Town Council in order to mitigate any impact of the project on the biodiversity of the common**
- **planting a hedgerow (hedge mix to be determined) along the frees avenue side.**

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.

Temporary use 120-180 metres of wooden post and rope to ‘fence’ off the newly laid area to allow the seed to establish itself.

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.

The use of ‘rope’ to cordon off the area has been chosen as it was thought to have less of a visual impact , and clearly suggests a temporary measure.

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

Some attempt to demark the newly grassed area is needed to allow the seed a fair chance to take and grow.

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

Rope has been chosen for this reason.

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

n/a

SECTION E – Planning permission

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

Yes

b) If yes, has planning permission been given?

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? **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)? **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? **No**

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

Is the proposal in an Area of Outstanding Natural Beauty (AONB)? **Yes**

If yes, please give the name of the AONB. **North Wessex Downs**

Will the proposal affect an area of special landscape value or World Heritage Site? **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**

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

**Marlborough Rugby Football Club clubhouse
Golf Club Clubhouse**

24. Does any area of common land or village green of a different registration number adjoin the common on which the works are proposed?

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**
If yes, please suggest a suitable meeting place.

At the car park adjacent to the Rugby Club.

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?

Wiltshire Gazette and Herald

On what date?

10 March 2022

On what date will the representation period end?

15 April 2022

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

Richard Spencer-Williams

Date **10 March 2022**

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](#).

