**##
Application Decision**

**By Richard Holland**

**Appointed by the Secretary of State for Environment, Food and Rural Affairs**

Decision date: 12 October 2021

**Application Ref: COM/3272615**

**Shalford Common, Surrey**

Register Unit No: CL 287

Commons Registration Authority: Surrey County Council

\* The application, dated 2 April 2021 is made under Section 38 of the Commons Act 2006 (‘the 2006 Act’) for consent to carry out restricted works on common land.

\* The application is made by Surrey County Council.

\* The works comprise the construction of a 3 m wide path with a bound recycled rubber / aggregate or tarmac surface and be edged with either concrete or timber. The path will cover an area of 292 m² north of the railway bridge and 94 m² south of the railway bridge. Minor vegetation cut back will be carried out where required to enable the works.

##
Decision

1.Consent is granted for the works in accordance with the application dated 2 April 2021 and the plan submitted with it subject to the condition that the works shall begin no later than 3 years from the date of this decision.

2. For the purposes of identification only the location of the works is shown in red within the common land boundary coloured and hatched green on the attached plan.

Preliminary matters

3. Since making the application, the applicant has amended the proposal such that lighting is no longer included and the stretch of path north of the railway bridge will have a recycled rubber / aggregate surface. The stretch of path south of the railway bridge will have a tarmac surface. I have taken these amendments into account when deciding the application.

4. I have had regard to Defra’s Common Land Consents Policy Guidance (Defra November 2015) in determining this application under section 38, which has been published for the guidance of both the Planning Inspectorate and applicants. However, every application will be considered on its merits and a determination will depart from the guidance if it appears appropriate to do so. In such cases, the decision will explain why it has departed from the guidance.

5.This application has been determined solely on the basis of written evidence.

6.I have taken account of the representations made by A and J Bate, Helen Johns,

M and C Meek, the Open Spaces Society (OSS) and Shalford Parish Council.

7. I am required by section 39 of the 2006 Act to have regard to the following in

determining this application:

* the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);

\* the interests of the neighbourhood;

\* the public interest. (Section 39(2) of the 2006 Act provides that the public interest includes the public interest in; nature conservation, the conservation of the landscape, the protection of public rights of access to any area of land, and the protection of archaeological remains and features of historic interest);

\* any other matter considered to be relevant.

Reasons

*The interests of those occupying or having rights over the land*

8. The applicant comments that the landowner, Guildford Borough Council, does not object to the works subject to agreement of future maintenance and management responsibilities. The applicant confirms that no rights are exercised over the common. I am satisfied that the works will not impact the interests of those occupying and having rights over the land.

*The interests of the neighbourhood and the protection of public rights of access*

9. The interests of the neighbourhood test relates to whether the works will affect the way the common land is used by local people and is closely linked with the interests of public rights of access. The applicant explains that the works are to an existing walking and cycling route for which it has been awarded funding to make critical improvements. The route forms part of bridleway 269, National Cycle Network Route 22 and a wider cycleway between Guildford and Godalming, where feasibility work is underway to establish plans for a cycleway scheme. The works will enable the construction of a high-quality facility for walkers and cyclists which is inclusive, safe, attractive, comfortable and promotes and improves health and wellbeing.

10. The concerns raised by interested parties include the cycle route and usage, safety, danger of fast moving cyclists to pedestrians, potential access by off-road vehicles/quad bikes, alternative routes and the impact of the works on horse riders. In response, the applicant explains that the route can become unusable in poor weather/winter. The works will enable access for utility cyclists and pedestrians throughout the year and provide a greater sense of personal security to users which accords with the latest national cycle infrastructure design guidance (LTN 1/20). The alternative routes suggested are not considered suitable or feasible and may exclude/discourage potential users. The works will provide room for different users to pass each other, use and behaviour will be monitored, signage will convey appropriate messaging and the design will help prevent illegal use by motorised users. Due to its isolated location between two busy roads, the route is not considered well used by horse riders. The British Horse Society was consulted about the application. The scheme is supported by local groups and organisations, including local cycle groups and has received a positive response from local residents.

11. I note that the works involve an existing shared and well used route that is not always accessible/usable, especially during wetter times of the year when the surface is in very poor condition. I accept that the works are required on the common and are designed to encourage and facilitate use for both walkers and cyclists. I am satisfied that there is no indication that the works will have an adverse impact on horse riders, especially as the path has no onward links other than with busy A roads which makes it unattractive to horse riders. I conclude that the works will improve the way the common is used by local people and will facilitate access for walkers and cyclists throughout the year.

*Nature conservation and conservation of the landscape*

12.The works are located near the Wey Valley Meadows Site of Special Scientific Interest (SSSI) which runs west and north west of the common. Photographs submitted by the applicant show that the route is already constructed of loose stone. The applicant explains that the route will connect to an existing paved (bound) road surface on Dagley Lane which adjoins Horsham Road and as the route is already a bridleway only minor vegetation will be cut back to enable the works to be carried out. Shalford Parish Council supports the proposal and comments that the materials and plan are sympathetic to the area and would not affect the common or the path detrimentally.

13. In response to concerns about urbanisation, drainage, the SSSI, wildlife, natural landscape and character of the area, the applicant confirms that the works are not expected to have a significant negative ecological or drainage impact or create pollution. The applicant adds that it is taking precautions to reduce any impact the scheme may have on wildlife, the natural environment and the SSSI. Following an ecology report it is working with Surrey Wildlife Trust (SWT) to undertake mitigation measures.

14. The common has no special landscape designation. While the works are likely to have some urbanising affect, I consider that, overall, they will help maintain and improve the condition of the route and, given that the route is presently constructed of loose stone, will not have a detrimental visual impact. In view of the mitigation measures proposed, I am satisfied that the works will not harm nature conservation interests and will conserve the landscape.

*Archaeological remains and features of historic interest*

15. I am satisfied that there is no evidence before me to indicate that the works will harm any archaeological remains and features of historic interest.

Conclusion

16. I conclude that the works will benefit public access and will not harm the other interests set out in paragraph 7 above. Consent is therefore granted for the works subject to the condition at paragraph 1.

Richard Holland

