



# Application Decision

by **Richard Holland**

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

Decision date: **23 November 2015**

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**Application Ref: COM 736**  
**Chobham Common, Surrey**

Register Unit No: CL 326

Commons Registration Authority: Surrey County Council

- The application, dated 21 September 2015, 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 Heath Borough Council.
  - The works comprise: the restoration of Staple Hill Pond affecting a total area of up to 5000 m<sup>2</sup>.
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## Decision

1. Consent is granted for the works in accordance with the application made on 21 September 2015 and the plan submitted with it subject to the following conditions 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 coloured red on the attached plan.

## Preliminary Matters

3. I have had regard to Defra's Common Land Consents Policy Guidance<sup>1</sup> 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.
4. This application has been determined solely on the basis of written evidence.
5. I have taken account of the representations made by the Open Spaces Society (OSS), Mrs Diane Beach on behalf of The Chobham Common Riders Association, Chobham Parish Council, Mr James Osbourn on behalf of The Chobham Society and the Heritage Conservation Team at Surrey County Council.
6. I am required by section 39 of the 2006 Act to have regard to the following in determining this application:-
  - a. the interests of persons having rights in relation to, or occupying, the land (and in particular persons exercising rights of common over it);
  - b. the interests of the neighbourhood;

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<sup>1</sup> Common Land Consents Policy Guidance (Defra July 2009)

- c. the public interest;<sup>2</sup> and
- d. any other matter considered to be relevant.

## **Reasons**

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

7. The landowner, Surrey County Council, has not objected to the proposed works. Rights of grazing, estover and turbary exist over the common, however the applicant confirms that rights are not exercised and the commoners will not be affected by the proposed works. No commoner has objected to the application and I am satisfied that the works will not adversely affect the interests of persons occupying or having rights over the land.

### ***The interests of the neighbourhood***

8. The interests of the neighbourhood test relates to whether the works will impact on the way the common land concerned is used by local people. There is no indication that the proposed works will interfere with the way local people use the common. The proposed works will dredge and reinstate a previous pond excavation. I note that the proposed works have local support as the restoration works are part of a project to reduce flood risk to properties and roads around Chobham Village. Chobham Parish Council, The Chobham Society and The Chobham Common Riders Association support the proposed works.
9. I conclude that the restoration of the pond and improvements to the surface of the common, by reducing water run-off, will enhance local people's enjoyment of the common, and will benefit the neighbourhood by reducing the risk of flooding in and around Chobham.

### ***The public interest***

#### *The protection of public rights of access*

10. A nearby bridleway and access track will be raised in height to hold back water and capped with imported Fittlework stone to improve access to users. In response to a request by Mrs Diane Beach to restore the bridleway to the definitive width, the applicant has confirmed that the bridleway will be reinstated to a width of 3 m upon completion of the works. I am satisfied that the improvement works being undertaken to both the pond and access ways will benefit public rights of access.

#### *Nature conservation*

11. Chobham Common is a Site of Special Scientific Interest (SSSI), a National Nature Reserve (NNR), a Special Area of Conservation (SAC) and a Special Protection Area (SPA). Surrey Wildlife Trust (SWT) manages the common on behalf of Surrey County Council under a 50 year lease. The applicant confirms that Natural England and SWT have approved the pond design. The pond is designed to improve the aquatic and marginal aquatic habitats of the common. Before construction begins SWT will survey the area to record any flora and fauna that is present. The restoration of the pond is intended to contribute to the achievement

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<sup>2</sup>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.

of favourable conditions for the SSSI by 2020. I consider that the proposed works are likely to benefit nature conservation interest.

#### *Conservation of the landscape*

12. The proposed works will enhance what is presently considered a dilapidated surface feature on the common originating from a disused gravel extraction pit. A large section of the original embankment remains and the missing bunds will be reinstated into the existing topography to minimise any unnecessary disturbance of areas not affected by the works. It is intended that the changes will blend naturally into the surrounding common land over a season or two of regrowth. I conclude that the pond restoration work is likely to enhance the landscape.

#### *Archaeological remains and features of historic interest*

13. The applicant claims that the works will restore what it describes as a feature of historic interest although Surrey County Council's Heritage Conservation Team, which has not objected to the application, says that there are no Scheduled Monuments on the site, the area does not fall within a designated Area of High Archaeological Potential and no known undesignated Heritage Assets are located on the site. I am satisfied that the works will not harm any archaeological remains or features of historic interest.

#### **Conclusion**

14. Having regard to the interests set out in paragraph 6, I consider that the works will not harm the interests, and are likely to benefit the neighbourhood and the public interest in nature conservation and the landscape by restoring a dilapidated feature on the common and alleviating the risk of flooding in the area. I conclude therefore that consent should be granted for the works subject to the condition set out in paragraph 1.

**Richard Holland**